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# LIQUOR LEGISLATION

IN THE

## UNITED STATES AND CANADA.

### REPORT

*Of a non-partisan Inquiry on the spot into the Laws and their  
Operation, undertaken at the request of*

W. RATHBONE, M.P.,

*Evelyn Leighton* BY  
E. L. FANSHAWE,

OF THE INNER TEMPLE, BARRISTER.

48859  
1900

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## PREFACE.

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I HAVE been anxious to have, for my own guidance and the information of those interested in the subject of Temperance Legislation, the most accurate account procurable of the licensing and prohibitory laws which during the last forty years have been tried, in almost every conceivable form, in the United States and Canada. In the annexed Report will be found the results of an investigation on the spot, during nearly eight months,—by a lawyer entirely uncommitted to foregone conclusions,—into such legislation and its results.

An extended investigation into the system in operation in Scandinavia has recently been made under the direction of the Bureau of Labour Statistics at Washington. The name of Colonel Carroll D. Wright, the Chief of the bureau, is a guarantee for the accuracy of the information which the Report will contain; and it may be hoped that this information, combined with that contained in the following pages, will afford to British legislators timely guidance gathered from the experience of two different sections of the world, in which the liquor question has received an unusual amount of attention in the way of experimental legislation.

The following letter will explain in detail the objects of the inquiry on which the present Report is based.

---

W. RATHBONE.

### LETTER OF INSTRUCTIONS.

*July 20th, 1892.*

DEAR MR. FANSHAWE,

It is clear from the prominence given to the subject at the last Election that the Liquor Traffic Legislation will be one of the most important subjects before the new House of

Commons, and it appears to me to be one of the most important conditions of success that the Legislature should have accurate information as to the results of the aims at reform in progress in different countries, especially in the United States, from the enactment of the Maine Liquor Law to the present time.

Very valuable papers have been issued by the Foreign Office on the subject; but the latest of them (issued in 1890) itself asserts that sufficient data have not been obtained to enable satisfactory conclusions to be formed as to the effects.

It appears to me, therefore, that a report by a lawyer, uncommitted to any of the various schemes advocated for dealing with this subject, and accustomed to digest evidence and place it in a clear form before those who have to act, is almost a necessary preliminary to sound legislation.

With this view I have consulted Mr. Justice Wright, who for more than eleven years gave me invaluable legal and other assistance—especially in his admirable collection and digest of the materials necessary for the consideration and the reform of the whole system of local government and taxation—and Mr. W. S. Caine, who was for many years president of the British Temperance Association, and has a deep interest in and a wide knowledge of the subject of temperance legislation. They agreed with me both as to the probable value of such inquiry, and that a report from you, made after inquiry on the spot as to the different experiments, would be entitled to public confidence.

I shall, therefore, be obliged if you will proceed to the United States of America and Canada, to conduct such inquiry there, and I hand you herewith the necessary letters of introduction to facilitate your work.

From the temperance reformers of America you will obtain the views held on that side respecting the results in the different States. From official sources (including police), and from others uncommitted or opposed to the local legislation, you will be able to learn what is said on the other side.

It is distinctly understood that you go with unbiassed mind,

to place before those interested American facts and opinions, without any object of supporting or opposing any particular line of legislation, the sole aim of your inquiry being to collect in the clearest and most correct manner the facts, results, and opinions, which are the outcome of American experience in the various States visited by you.

I need hardly point out that it is important not only to obtain an accurate report of the different laws and their results, but of the different circumstances of the States and districts in which they have been administered, as a law may have been very different in its effects in a sparsely populated district and in a large town or populous district. Again, there may be differences between the new States in the West and the old settled States in the East, and between the North and the South, in the latter of which I am informed by one of my temperance friends that some very interesting experiments are going on.

It will be, moreover, important to observe the effects of different experiments on the different classes of those who drink; for instance, on those of confirmed habits of intemperance who may be bent on evading the laws, whatever they are; and on that part of the population whom it is sought to protect from excessive temptation to acquire habits of intemperance.

Again, it will be of interest to ascertain (so far as may be possible) the effects of prohibitory or restrictive laws, not merely as regards actual drunkenness, but as regards the moral and material condition of the population generally, including moderate drinkers, as well as those who are, or are in danger of becoming, drunkards.

Information also will be valuable, showing how far public opinion in the different States where they have had varying laws in operation has been strengthened in their favour, or otherwise, by experience. It may be difficult to judge of this except where votes have been taken after local experience.

I do not fetter you with any instructions as to the mode in which you should proceed to obtain the desired information. I am satisfied that by following your own judgment in this matter you will be best able to give such a fair and judicial account of American experience as may be of use in the preparation of future legislation.

Yours faithfully,

W. RATHBONE.

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# LIQUOR LEGISLATION

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### CHAPTER I.

#### INTRODUCTORY.

THE American Union comprises forty-four States, six Territories, and the District of Columbia, each of which has a separate and distinct system of laws, both civil and criminal.

The right of every State and (subject to certain additional limitations which need not here be noticed) of every Territory to legislate for itself is controlled only by the provisions of the Federal Constitution, which cannot be altered save by the nation at large. The powers of each State Legislature are indeed fettered to some extent by its own fundamental law, or State Constitution; but, as this fundamental law can itself be altered by the action of the individual State, and without reference to the federal power, it involves no detracting from the sovereign power of the State, which is master of its own Constitution.

The liquor laws of the United States, therefore, are the liquor laws of some fifty separate and independent communities. And, as the whole mass of legislation is vast, and the points of difference, large and small, between the laws of different States are manifold, so, too, in the attempt to ascertain the practical bearings and results of different systems, the centres of information and areas of local experience are many and widely separated. Admirable and complete in their own

line, and readily available as are the statistics published at Washington and in certain individual States, there is much even of purely statistical information which cannot be obtained except in the places immediately concerned; while many things regarding the practical operation of the laws are not reducible to statistical form, but can be gathered only by observation on the spot or by contact with those who have local and personal experience. The strong and bitter antagonisms which surround the whole problem of liquor legislation constitute a great addition to its inherent difficulties.

In Canada, also, though there is less multiplicity of laws, the several provinces have their own distinct systems of liquor legislation, and the subject is further complicated by the intervention of the Parliament at Ottawa, which has passed legislation having effect throughout the Dominion, side by side with the provincial laws. The subject is in a state of great unrest in Canada; agitation for prohibition is being carried on with ardour; and a Royal Commission, appointed last year to go into the whole question, has not yet reported.

Under these circumstances a complete examination of the liquor laws of America and their working would be a task of very considerable magnitude. To formulate without prejudice any positive and definite conclusions as the result of such an examination would be one of great difficulty. A commission proceeding from Washington under high official sanction would, perhaps, be the only body competent to undertake such an inquiry; but, in view of the existing social and political aspects of the liquor question in America, it is permissible to doubt whether such a body could now be constituted with any prospect that it would conduct its proceedings, and agree on its conclusions, without raising allegations of bias on one side or another.\*

\* Since the above was written, I learn that a strong committee of fifty has been appointed, under the auspices of the Bishop of New York, to investigate the whole liquor problem.

It need not be said that the following pages have no claim to completeness in the examination of the subject, still less do they attempt to formulate any scheme for English legislation as being the logical outcome of American experience. They simply embody the result of observations and inquiries respecting liquor laws and their working made during a tour undertaken with that object in the United States and Canada between August, 1892, and April, 1893. During that period it was my good fortune to be brought into contact with many men of wide experience and all shades of opinion, to whom, for their great candour and courtesy, I desire here to tender my acknowledgments.

My aim has been to record things as I saw them, and facts and opinions as I heard them, and in particular (so far as may be compatible with the necessary work of summarising the evidence) to abstain from the expression of opinions and conclusions of my own, except where the authority for them is also given, and even then to express them sparingly. In dealing with a highly controversial subject, I have endeavoured as much as possible to keep clear of controversy. The reader, therefore, is not pressed with arguments, based on American experience, in favour of any defined scheme of liquor legislation; it is sought rather to lay before him a true statement of facts and leave him to draw his own conclusions, whether favourable or unfavourable to any particular proposal for dealing with the liquor question in this country. While the adoption of this method may probably lay the book open to the charge of indefiniteness, it is hoped that some compensating advantage may be found in the attempt to approach in a non-controversial spirit a subject on which so much of an extremely partisan character is written and said.

Later chapters, comprising the main portion of the volume, deal separately with individual States and with Canada; but, as a great part of the whole subject falls naturally into a few main subdivisions, on which light is cast from various quarters,

it has seemed desirable to group together, in a brief summary, points bearing on special branches of the general question. The three things which most readily suggest themselves for separate treatment are: State Prohibition, Local Option, and High Licence. The last-named principle is indeed, in a sense, merely a detail of licensing law; but, as in several States it is the leading feature of the law, from which important results are claimed to have ensued, and as much controversy has gathered round it, and it has excited bitter opposition as well as widespread support, it calls for special notice in any examination of American liquor legislation. Several details, which are common in American licensing laws, but have not been adopted in England, also deserve to be mentioned, and the subject of "temperance instruction" in the elementary schools, now compulsory in the majority of the States, is one which has engaged the energies of many zealous persons in all parts of the country, and cannot be well approached except as a whole.

A point of great practical importance in any attempt to import American experience for British consumption is to realise the different conditions prevailing in the two countries in regard to the liquor question. As the sole purpose of the following pages is to aid those engaged in the attempt to settle the liquor problem on this side of the Atlantic, the differences just referred to are at the root of the whole matter, and it will be as well before going further to see what they are.

## CHAPTER II.

## HABITS AND CHARACTERISTICS.

THE average typical American differs from the average typical Englishman both in his habit, mental and bodily, in regard to the personal and social use of intoxicating liquor, and in his attitude of mind in regard to legislative interference with the traffic. The political bearings of the question in the two countries differ widely in important particulars. Variations of climate also enter into the question—to what extent it is difficult to estimate, but probably in no slight degree. These heads of difference, personal, social, political, and climatic, are intimately connected with and inter-dependent on one another.

One of the first things which strike an Englishman travelling in America is the vast consumption at table of iced water. If he quits the eastern cities and penetrates into the interior, he will be not unlikely—except at a few of the larger centres—to find himself often the only person taking wine or beer with his dinner in the dining-room of the hotel. If at any hour of the day he strolls into the bar-room, he may or may not find some of his fellow-lodgers and their friends treating themselves or one another to a glass of whisky or a cocktail.

It would be rash to attempt an estimate of the number of total abstainers in the United States, but I think it cannot be doubted that they form a very much larger proportion of the population there than in this country. The feeling that there is something disreputable or sinful about the use of intoxicating liquor is certainly strong and widespread, and it commands a certain deference from many who do not themselves share it, or at all events do not practise total abstinence. People of this latter class would be ashamed to be seen with a glass of

beer at their dinner, and prefer to go to the bar, where they are not so likely to be seen. I do not, of course, give this as the view of fashionable society, or of Americans who travel, or of the foreign portion of the population; nor do I attempt to measure its full extent or significance among the rest. But it is a fact that it prevails widely among a large section of the community, and is not restricted to those who are identified with the active anti-liquor movement. It constitutes a marked distinction between the American and English points of view.

It is easy to illustrate this distinction in several ways. For instance, I found myself on one occasion in a small university town, when a banquet was given by the business men to the university professors. The proceedings continued from nine p.m. till past two; nothing was drunk but water (as one of the professors told me, a little regretfully, the following day). The exclusion of wine at public dinners is indeed quite common, if it is not actually rather the rule than the exception; it is not unusual even at so cosmopolitan a place as Boston. Then, again, there is probably no church organisation in America whose ministers could maintain their position as pastors of their congregations if it were known that they were not total abstainers.\* In thousands of private houses, also, in all parts of the country, no fermented liquor is ever seen.† The feeling against its general use is accentuated against its use by women and by the young, so that a special disposition is manifested to banish it from the family table. A woman employed in serving liquor in a bar-room is an object rarely,

\* A case was related to me where something like consternation was created among the passengers in one of the Fall River steamboats by the spectacle of three ministers of religion drinking beer with their supper.

† I have found more than once in conversation with Americans that an estimate putting the number of "teetotal" houses at one-half of the whole number of residences in the town would be considered low. Total abstinence has even reached the White House at Washington, where, during one administration (as disrespectful persons have said), "water flowed like champagne."

perhaps never, seen in America. The employment of women in this way seems extraordinary to many Americans visiting Europe for the first time. In some States it is expressly forbidden by law.\* I know of at least one State in which the serving of liquor to a woman in a saloon, for consumption on the premises, is a crime punishable with a year's imprisonment in addition to a heavy fine.†

Serving liquor to minors is universally prohibited, and a strong feeling is noticeable in many quarters that the young ought to be kept as far as possible away from all temptation to depart from habits of abstinence. A professor in a State University, not himself a teetotaler, nor professing extreme views on the liquor question, has told me that he should not think it right to place wine on his table if any of his pupils (young men of the age of Oxford undergraduates) were present.‡

Habitual deviation from total abstinence is often regarded as a disqualification, or (if not as an actual disqualification) as in some degree an obstacle, in candidates for clerkships or other kinds of employment. If a clerk is known by his employer to be in the habit of taking liquor, he will in a large

\* Laws of New York, 1892, ch. 360, "An Act to prohibit the hiring of barmaids." See also Colorado, p. 307.

† See Licensing Law of Rhode Island, summarised on page 184. In Philadelphia, I was told, saloon keepers are shy of selling to women. It is not illegal, but it might prejudice them with the licensing authority.

‡ As showing the effect of this bent of public opinion upon the young I may mention an instance related to me by a clergyman residing in a large western town. He was present at a dinner given to a number of young men, members of a local masonic lodge. Towards the close of the entertainment the glasses were filled with some kind of negus. When the party separated, my informant, as he passed along the table to the door, observed that not one glass in ten was emptied, the most part had hardly been touched. I should add that my informant was by no means an extreme man on the liquor question; he was indeed a strong and (considering his cloth) courageous opponent of prohibition. Instances like the case just mentioned are not rare.

number of cases fall into disfavour, perhaps lose his place. I have heard it used seriously as an argument against prohibition that under that system clerks and employees of mercantile houses will get drunk in secret places, whereas under a licence system they will go without liquor, being afraid to be seen entering an open saloon. I mention this, not for the sake of the argument, but as an indication of what I have been saying about the attitude of the public mind in regard to the use of liquor.\*

Here, by way of further illustration, is an extract from the official annual report of the superintendent of police in a large city in one of the northern central States :—

“ Officers cannot drink and be relied upon to do their duty. The two do not and cannot go together, and whatever a man’s qualifications may be, the fact that he is even a moderate drinker should disqualify him from belonging to any well-regulated police department.”

Much more might be said in illustration of the strong anti-liquor tendencies noticeable in America, but it is perhaps unnecessary. They are very marked, and permeate the community very widely and deeply ; and they should not be lost sight of by foreigners who study the liquor question as it affects that country.

Notwithstanding all this, however, statistics tell us that the American has lately been drinking on the average more spirits and more wine, though much less beer, than the Englishman ; and the consumption, *per capita*, in the United States has in recent years been on the increase. American drinking, moreover, it must be owned, is to a great extent a peculiarly pernicious kind of drinking. It consists largely in the treating

\* The very use of the word “drink” illustrates my meaning. To say in England that a man “drinks” is to put upon him the imputation of habitual intemperance. In America the word would not necessarily mean more than that he was not a teetotaller.



and being treated to whisky and strong spirituous compounds over the bar of a saloon. The habit of treating has much to answer for. It is peculiarly an American custom in the extent to which it is there carried ; and some Americans go so far as to attribute to it the greater part of all the mischief caused by drink throughout their country.\*

Saloon drinking in America is no doubt in many respects much the same thing as public-house drinking in England ; but treating is a special feature of the one, as, perhaps, silent soaking is of the other. And the saloon attracts a class—clerks, professional and commercial men, and others—which does not to the same extent frequent the public-house. The American reformer, therefore, views the existence of the saloon as something which may intimately concern himself, in his own family, or among his own relations and friends. Business men, it is said, are much more apt to drink now than they used to be, and the growing custom of resorting to clubs is alleged to be promoting the habit. I have heard the opinion expressed that drinking is decreasing in the lower and increasing in the upper classes.

The great distinction, however, between English and American drinking probably is that the retail liquor traffic is in America concentrated about the drinking-bar far more exclusively than it is here. The proportion of Englishmen (in all classes of life) who look upon a measure of fermented liquor as part of their dinner, whether at home or at the club or eating-house, is large ; in America it is certainly very much

\* Two Americans go together to a bar ; one treats the other, who, feeling himself under an obligation, must have his revenge. The result is in many cases that each will have had not only more than is good for him (assuming that a cocktail can ever be good for anyone under any circumstances), but twice as much as he had any desire for. The managing editor of the leading newspaper in a large city in one of the central States told me that he had found the treating custom such a nuisance that at last he made up his mind to refuse all invitations of the kind, and became practically a teetotaller.

smaller, though I found in some quarters a belief that wine and beer at meals were in growing demand.\*

This distinction may probably be accounted for, in part, by the circumstance that the national drink of America has been whisky. Until comparatively recent times the native production of what may be called "table drinks," wine and beer, was small, while imported European wine was and is too scarce and too expensive to be anything but a luxury reserved for the rich. Of late the home production of wine has shown increased activity. California, the chief seat of this industry, produces some fifteen million gallons annually, and the home consumption of Californian wine is said to reach a million gallons a month. In Arizona and New Mexico the culture of the vine is increasing. Further east, Ohio and some other States produce a limited quantity of wines; even prohibitory Kansas was credited with 130,000 gallons in 1889. The whole production in the United States in that year was stated in the census return to have been over twenty-four million gallons. Still, outside California, the consumption of native wine is not large, and even in that State it is hardly a national beverage as wine is in Italy and in most parts of France, or cider in Normandy and Brittany. A good deal of American wine finds its way to France, and is thence launched upon the markets as French wine.

American beer is the product of German immigration; large quantities of it are now produced and consumed, but its origin is foreign, and its development comparatively recent. The total annual production grew in twenty-five years (1863—1888) from two to nearly twenty-five million barrels, and the consumption, *per capita*, in fifteen years (1875—1891) from six to fifteen gallons. But, though beer-drinking has doubtless gained ground among the native Americans, whisky still

\* The custom of free lunches (food of an inferior kind being provided *gratis*, and only the drink being paid for) is one method of attracting the poorer class to the saloons.

predominates with them as the national drink, and the beer is to a very large extent drunk, as well as made, by the foreign elements in the population, especially the Germans.

The peculiarly dry and exciting climate of America seems also to have borne its share in influencing opinion upon the liquor question. I have repeatedly heard it said that people cannot stand strong liquor in America as they can in Europe. I have been told it by medical men who spoke from their professional experience, and by others who spoke of particular cases within their own personal knowledge and observation. The evidence, I believe, is strong that a given amount of liquor might seriously affect a man in America which in Europe he would be able to take without visible ill effects.\*

A few words should be said about the attitude of mind of Americans towards liquor legislation. It is a matter of common observation that the development of the principles of local self-government and majority rule has been accompanied by a disposition to show less tenderness for the rights and interests of individuals than prevails in Great Britain. Americans, in discussing their own institutions, often note this disposition. It, perhaps, accounts for the comparatively rare use in America of the argument —that local option or prohibition is an unjustifiable interference with personal liberty. That argument is, of course, urged, and strongly urged, in many quarters; but on the whole it is remarkable how large a proportion, even of those who do not favour extreme repressive measures, are unconcerned by it.

\* A distinguished physician has told me of a case, in his own practice, where he had to warn an English patient that he was killing himself by drink. He was much surprised, and assured the doctor that he drank no more than he had been accustomed to in England (he had gone over to fill a post for which he had been selected in an American University). My informant quite believed the statement, but his patient died, and in his opinion died of drink. The head of a great hospital in America told me that it was no uncommon experience with nurses who had come out from England to find, after a short time, that they had to give up their beer or reduce the amount of it.

Local option would probably be regarded as justifiable and correct in principle by the great majority of Americans, whatever their individual views might be of its value as a practical measure. And, among opponents of State prohibition, I have been struck by the large proportion who rested their opposition to it solely on their belief that it would not be effective, and were not at all pressed by any feeling that it interfered unduly with individual rights. A gentleman, holding a responsible office in his State, remarked to me that he would vote for prohibition in the Dakotas, but not in a State like Minnesota, with its three large cities, Minneapolis, St. Paul, and Duluth. Many who would welcome real, effective prohibition, regard it as unattainable. So, too, with the argument that the closing of the saloon is an interference with the poor while it does not touch the rich; it cannot be said that this argument is not heard, but certainly it is not allowed much prominence. And, if it is true that the proportion of total abstainers is exceptionally large among the Americans, it follows that the number of those whose personal convenience is affected or threatened by prohibition is proportionately small.

The compensation question receives little attention, indeed can hardly be said to have any political existence, so far as the saloon keepers are concerned. Such advocacy as is forthcoming in favour of any such claim is little more than academic, and renewals of licences have been refused in the most wholesale way without the question of compensation being seriously raised. The only real controversy which has arisen in connection with this question was upon the right of brewers and distillers to be compensated for loss of capital on the passing of a law prohibiting the manufacture of liquor; and the final decision was against the claim.\*

\* This was in Kansas. I heard of one brewer who lost \$80,000 and was ruined. The U.S. circuit court decided that the brewers and distillers were entitled to compensation; but the supreme court held that the question of compensation was at the discretion of the State; and none was given.

Political agitation in America on the liquor question is widespread, persistent, and powerful. The question is very much to the front in all parts of the country; the churches take an active part in it; anti-liquor organisations abound; and a mass of periodical and campaign literature is constantly being sent out. The various liquor interests are powerfully organised upon the other side. At elections, where the liquor question is at issue, great pressure is brought to bear by the advocates of prohibition, especially by the clergy and women, to induce voters to support their cause.\* This part of the subject cannot here be enlarged upon; I mention it only to emphasise the fact of the extreme prominence in which the whole question stands, and the extreme energy and bitterness with which the controversy about it rages.

In "politics" it plays a peculiar part. The success with which advanced repressive measures have been carried in some States has been largely due to the pressure brought to bear on one of the great political parties by a section not large enough to carry its programme by independent action, but having great energy, and a strength sufficient to hold the balance at the State elections. The importance of public opinion (and particularly of that part of it which takes the form of political pressure)—not merely in the passing of a law, but subsequently in the routine of its daily enforcement by officers who hold their appointments by popular election and for short terms—is a well-known characteristic of the American system of government; and it is specially necessary to take due account of it in the endeavour to follow the working of the

\* At a recent election we are told that "the pastors manned the ten polling places, and the women and children prayed in their pews. Every church bell in the town joined in the chime heralding the election of the no-licence candidate." There seem to be grounds for the belief that through the exercise of active pressure the prohibitionist vote at elections has sometimes rather over-represented the genuine desire for prohibition. *See*, on this point, Rhode Island, p. 173, and Ontario, p. 386.

various liquor laws; as will appear in some of the later chapters dealing with individual States. It is made manifest also in the Law and Order Leagues established in many cities throughout the Union, which often display much activity and exert powerful pressure towards the enforcement of laws. A special need seems to be felt for such societies in the United States, as embodying the active expression of public sentiment, to which the officers of the law are peculiarly susceptible, when it is manifested with sufficient force. The reluctance of witnesses to give evidence and of juries to convict is another mark of the difficulty of enforcing unpopular laws, which has been much experienced in America.\* And the legal procedure in most States lends itself to the interposition of "dilatory pleas" between the offender and his punishment.

It is no very rare thing to hear Americans declare themselves in favour of prohibition as a legislative enactment at the same time that they express their disbelief in the possibility of effectively enforcing it, or even in the expediency of making any great effort to do so. A Senator from one of the more sparsely-populated prohibition States remarked to me that, though he did not profess himself a prohibitionist, his experience in that State was inclining him to favour the system, provided it was not too vigorously enforced. A similar view was expressed by an ex-Senator of Rhode Island in an official report on the operation of prohibition in that State.†

\* The secretary of a Law and Order League mentioned to me a case within his experience, where, at a session of the criminal court, a prominent liquor dealer was placed on the jury panel, who was also, either in his own person or through his bartenders, defendant in several liquor cases coming before the court. The secretary pointed out this circumstance to the district attorney, who said he would put the matter right. This he proceeded to do, not as my friend intended, by dispensing with the services of this individual as juror, but, on the contrary, by "continuing" (postponing to a later session of the court) the cases in which he was concerned, and keeping him on the jury. For a somewhat similar case, *see* p. 162 *note*.

† *See* statement of Hon. W. Sprague, p. 178.

On the whole, the foregoing observations seem to show that, from the point of view of the advocates of strong repressive legislation, America is at a certain advantage, as compared with England, in respect of the general attitude of the public towards the liquor question. Americans, also, it should be said, are as a rule more ready to adopt experimental legislation than Englishmen, and are less oppressed by misgivings as to the prospect of future enforcement. On the other hand, it will probably not be disputed that in England there is a greater disposition on the part of the executive authorities to enforce a law once it is passed, because it is the law, and without looking to external or popular guidance in the matter. In America it does not follow that a law is enforceable because it remains for a long time on the Statute-book ; and, on the other hand, it is not necessarily unenforceable because it is not in fact well enforced. It is sometimes said that the best way to get rid of an obnoxious law is to enforce it. Whether a general application of this method would have been more likely to result in the repeal of some of the more repressive liquor laws of America, or in their firmer and wider establishment, is a question which inquirers must decide for themselves.\*

Appended are three tables, which may be useful for future reference :—

- I. Showing consumption of liquor in the United States and United Kingdom.
- II. Showing production of liquor, and number of persons paying tax as dealers in liquor, by States.
- III. Giving certain particulars of growth and distribution of population, and statistics of crime and pauperism, by States.

\* For some general remarks on temperance legislation, *see* the address delivered by Professor Francis Wayland at the Sixth National Convention of Law and Order Leagues in the United States, printed in Appendix I., p. 409 of this volume,

TABLE I.  
LIQUOR CONSUMPTION.

(a) *In the United States.*

Year ending June 30.	Consumption per Capita of Population.			
	Spirits.	Wine.	Beer.	Total of all Liquors.
	Proof Gallons.	Gallons.	Gallons.	Gallons.
1875	1'50	'45	6'71	8'67
1876	1'28	'45	6'83	8'61
1877	1'22	'47	6'58	8'33
1878	1'09	'47	6'68	8'24
1879	1'11	'50	7'05	8'66
1880	1'27	'56	8'26	10'09
1881	1'38	'47	8'65	10'50
1882	1'40	'49	10'03	11'92
1883	1'46	'48	10'27	12'21
1884	1'48	'37	10'74	12'60
1885	1'26	'39	10'62	12'26
1886	1'26	'45	11'20	12'90
1887	1'21	'55	11'23	13'99
1888	1'26	'61	12'80	14'67
1889	1'32	'56	12'72	14'60
1890	1'40	'46	13'67	15'53
1891	1'42	'45	15'28	17'16
1892	1'50	'44	15'10	17'04

(b) *In the United Kingdom.*

1880	1'07*	'45	...	...
1885	'96*	'38	27'09†	28'44
1890	1'02*	'40	30'00†	31'42
1891	1'04*	'39	30'16†	31'60

[For Consumption in Canada, see page 392.]

\* Ordinary gallons.

† The Statistical Abstract for the United Kingdom appears to take no notice of imported beer. The figures relate only to British beer, and some small addition must be allowed for what comes from Germany.

*Note.*—The total quantity of *alcohol* (excluding whisky, brandy, gin, and rum) ascertained to have been consumed in 1889 in the arts, manufactures, and medicine is stated in the census to have been 6,745,152 proof



gallons. According to the report of the Commissioner of Internal Revenue, for the year ending June 30, 1889, 10,739,734 proof gallons of alcohol were withdrawn from bond on payment of the tax. The difference—nearly 4,000,000 proof gallons—represents a certain amount used in the arts, etc., and not reported at the Census Office, and also a certain amount used for drinking. A considerable quantity of alcohol (as such) is said to be drunk by some of the foreign elements in the population, especially in the North-West. In New York City, fifteen barrels are said to be consumed daily for this purpose; also a considerable quantity in the coal regions of Pennsylvania. In some of the low-class bar-rooms it is probably compounded into a low-grade whisky, but no trustworthy statistics as to this are obtainable.

TABLE II.

*Amount of liquor produced, and number of distilleries, and of persons paying tax as wholesale and retail dealers in liquor, and brewers, in the United States, during the year ending June 30th, 1892.*

STATES AND TERRITORIES.	Amount of Distilled Spirits Produced.	Distilleries.*	Distilled Spirits.		Amount of Fermented Liquor Produced.	Malt Liquors.		
			Retail Liquor Dealers.†	Wholesale Liquor Dealers.‡		Brewers.	Retail Dealers in Malt Liquor.§	Wholesale Dealers in Malt Liquor.
	Gallons.				Barrels.			
Alabama .....	9,964	71	1,120	43	36,948	5	49	25
Alaska .....			60			4	3	
Arizona .....	a		666	9	a	3	13	24
Arkansas .....	93,863	76	794	42			15	26
California .....	62,532,464	298	44,054	465	6793,646	142	232	160
Colorado .....			2,864	60	2201,092	26	151	91
Connecticut .....	253,440	45	3,172	56	2360,216	19	122	130
Delaware .....	f	26	405	6	f	5	8	6
District of Columbia .....	g		1,578	31	g	7	55	6
Florida .....			475	15			29	13
Georgia .....	431,858	215	2,025	55	51,566	5	130	34
Idaho .....	h		888	16	h	19	11	20
Illinois .....	38,145,689	38	17,438	309	2,939,149	136	968	299
Indiana .....	6,086,924	69	7,561	94	577,123	48	355	266
Indian Territory .....	i		3		i		494	30
Iowa .....	386	3	4,706	58	115,212	37	253	153
Kansas .....	i1,646	4	2,068	16	21,650	1	432	51
Kentucky .....	33,756,913	763	4,888	239	340,410	28	183	61
Louisiana .....	k684	7	5,468	117	k262,332	8	49	37
Maine .....	l		808	7	l		214	5
Maryland .....	2,775,686	56	4,355	105	2792,506	36	61	63
Massachusetts .....	1,893,574	13	4,918	223	1,123,330	34	266	241
Michigan .....			8,183	58	650,823	114	266	172
Minnesota .....	2,007,793	2	3,146	69	384,636	96	169	148
Mississippi .....	k	2	1,050	30	k		132	22

TABLE II.—(continued).

STATES AND TERRITORIES.	Amount of Distilled Spirits Produced.	Distilleries.*	Distilled Spirits.		Amount of Fermented Liquor Produced.	Malt Liquors.		
			Retail Liquor Dealers,†	Wholesale Liquor Dealers,‡		Brewers.	Retail Dealers in Malt Liquor,§	Wholesale Dealers in Malt Liquor,
	Gallons.				Barrels.			
Missouri .....	3,279,148	119	7,849	204	2,047,606	60	406	210
Montana .....	4839	2	2,217	54	482,781	20	48	38
Nebraska .....	4,951,553	2	2,277	46	1,514,429	25	138	155
Nevada .....	b	.....	552	7	b	18	6	9
New Hampshire .....	434,309	2	1,669	9	429,678	5	160	68
New Jersey .....	737,521	72	8,367	81	1,793,649	52	268	228
New Mexico .....	41,404	6	584	6	46,835	4	12	30
New York .....	2,248,485	59	38,678	942	9,558,744	304	1,581	607
North Carolina .....	851,219	1,895	1,468	31	.....	.....	39	26
North Dakota .....	c	.....	303	.....	c	2	24	.....
Ohio .....	8,593,321	67	15,943	351	2,668,494	131	265	361
Oklahoma .....	.....	.....	339	6	.....	.....	17	23
Oregon .....	m69,064	10	1,868	47	m234,117	38	42	24
Pennsylvania .....	7,394,232	118	12,119	427	3,203,632	272	619	476
Rhode Island .....	d	.....	1,729	49	d	5	24	24
South Carolina .....	44,560	48	970	16	6,221	1	33	17
South Dakota .....	e	.....	1,079	8	e	3	22	23
Tennessee .....	967,009	334	2,704	70	99,115	4	23	36
Texas .....	6,354	16	4,807	73	115,393	12	1,099	290
Utah .....	h	.....	642	13	h	11	28	14
Vermont .....	l	.....	419	.....	l	1	30	10
Virginia .....	341,855	1,437	3,474	44	62,314	4	63	38
Washington .....	m	3	2,012	44	m	41	38	46
West Virginia .....	385,275	45	1,362	12	134,106	6	67	21
Wisconsin .....	539,474	2	8,891	111	2,631,783	169	399	140
Wyoming .....	.....	.....	419	9	c	6	8	15
Total .....	118,436,506	5,925	215,434	4,783	31,856,626	1,967	10,031	4,969

a Arizona included in New Mexico. b Nevada included in California. c Wyoming included in Colorado. d Rhode Island included in Connecticut. e Dakota included in Nebraska. f Delaware included in Maryland. g Maryland includes District of Columbia; also Delaware. h Montana includes Idaho and Utah. i Includes Indian territory. k Mississippi included in Louisiana. l Maine and Vermont included in New Hampshire. m Washington included in Oregon.

\* Distillers as such not being liable to a special tax, the number of distilleries is given as nearest representing the number of distillers. † Retail liquor dealers sell distilled spirits, wines, or malt liquors "in less quantities than five wine gallons at the same time." ‡ Wholesale liquor dealers sell such liquors "in quantities of not less than five wine gallons at the same time." § Retail dealers in malt liquors sell malt liquors only "in less quantities than five gallons at one time." || Wholesale dealers in malt liquors sell such liquors "in quantities of not less than five gallons at one time."

TABLE III.

*Statistics of Population, Crime, and Pauperism in the United States.*

[Compiled from Census of 1890.]

STATES AND TERRITORIES.	Population per Square Mile.	Increase of Population per Cent.		Percentage of Pop. in Towns over 8,000 Inhabitants.	Prisoners in Penitentiaries and County Jails per Million of Population.		Paupers in Almshouses per Million of Population.	
	1890.*	1880-90.	1870-80.	1890.	1890.†	1880.	1890.	1880.
<i>North Atlantic</i> ...	—	[19'95]	[17'96]	[51]	[1,221]	[1,062]	[1,790]	[2,339]
Maine .....	22	1'87	3'51	19	714	613	1,756	2,319
New Hampshire.	41	8'51	9'01	27	608	608	3,036	3,453
Vermont .....	34	0'04	0'52	7	364	565	1,633	1,971
Massachusetts ...	278	25'57	22'35	69	1,109	842	2,110	2,542
Rhode Island ...	318	24'94	27'23	78	1,016	557	1,418	1,902
Connecticut .....	154	19'84	15'86	50	1,361	1,097	1,927	2,277
New York .....	125	18'	15'97	59	1,580	1,408	1,713	2,450
New Jersey .....	193	27'74	24'83	54	1,620	1,353	1,881	2,177
Pennsylvania ...	116	22'77	21'61	40	903	836	1,646	2,144
<i>South Atlantic</i> ...	—	[16'59]	[29'79]	—	[1,034]	[931]	[914]	[918]
Delaware .....	86	14'93	17'27	—	825	552	1,775	2,640
Maryland .....	105	11'49	19'73	—	818	891	1,534	1,270
Dist. of Columbia	—	29'71	34'87	—	925	1,070	959	1,036
Virginia .....	41	9'48	23'46	—	941	895	1,324	1,400
West Virginia ...	31	23'34	39'92	—	565	601	1,038	1,150
North Carolina .	33	15'59	30'65	—	1,152	1,104	923	911
South Carolina...	38	15'63	41'10	—	1,025	627	502	521
Georgia .....	31	19'14	30'24	—	1,241	1,169	490	357
Florida .....	7	45'24	43'54	—	1,645	998	61	167
<i>North Central</i> ...	—	[28'78]	[33'76]	[25]	[680]	[675]	[1,145]	[1,141]
Ohio .....	90	14'83	19'99	31	587	546	2,015	2,181
Indiana .....	61	10'82	17'71	18	858	772	1,335	1,543
Illinois .....	68	24'32	21'18	38	708	820	1,410	1,197
Michigan .....	36	27'92	38'25	26	720	857	915	1,067
Wisconsin .....	30	28'23	24'73	25	519	369	1,566	774
Minnesota .....	15	66'74	77'57	28	492	452	280	291
Iowa .....	34	17'68	36'06	14	497	493	848	717
Missouri .....	39	23'56	25'97	26	823	739	888	681
North Dakota ...	3	395'05	853'23	—	841	407	192	—
South Dakota ...	4	234'60	853'23	3	841	407	161	—
Nebraska .....	13	134'06	267'83	24	576	738	275	250
Kansas .....	17	43'27	173'35	11	946	893	416	356

TABLE III.—(continued).

Statistics of Population, Crime, and Pauperism in the United States.

[Compiled from Census of 1890.]

STATES AND TERRITORIES.	Population per Square Mile.	Increase of Population. per Cent.		Percentage of Pop. in Towns over 8,000 Inhabitants.	Prisoners in Penitentiaries and County Jails per Million of Population.		Paupers in Almshouses per Million of Population.	
		1880-90.	1870-80.		1890.†	1880.	1890.	1880.
[ <i>South Central</i> ] ...	—	[23'02]	[38'62]	—	[1,217]	[1,210]	[460]	[412]
Kentucky .....	46	12'73	24'81	—	1,012	772	849	829
Tennessee .....	42	14'60	22'55	—	1,210	1,262	874	737
Alabama .....	29	19'84	26'63	—	1,097	1,072	412	407
Mississippi .....	28	13'96	36'68	—	553	1,143	383	305
Louisiana .....	25	19'01	29'31	—	1,233	1,128	109	—
Texas ..	8	40'44	94'45	—	1,950	1,960	208	132
Indian Territory ..	2	—	—	—	—	—	—	—
Oklahoma .....	2	—	—	—	—	—	—	—
Arkansas .....	21	40'58	65'65	—	1,089	940	198	131
[ <i>Western</i> ] .....	—	[71'27]	[78'46]	—	[1,914]	[1,830]	[1,036]	[1,023]
Montana .....	1	237'49	90'14	—	3,162	1,940	999	—
Wyoming .....	1	192'01	128'	—	1,137	2,646	—	—
Colorado .....	4	112'12	387'47	—	1,943	1,384	211	237
New Mexico .....	1	28'46	30'14	—	1,282	—	7	—
Arizona .....	1	47'43	318'72	—	4,042	1,336	385	99
Utah .....	2	44'42	65'88	—	1,073	403	298	—
Nevada .....	—	26'51 (de.)	46'54	—	3,278	3,196	940	1,526
Idaho .....	1	158'77	117'41	—	1,742	982	237	215
Alaska .....	—	—	—	—	—	—	—	—
Washington .....	5	365'13	213'57	—	1,122	1,078	203	146
Oregon ..	3	79'53	92'22	—	1,348	1,259	316	292
California .....	8	39'72	54'34	—	2,263	2,489	2,152	1,843

\* Area reckoned exclusive of water surface. The population of the United Kingdom averages 312 per square mile; of England and Wales 500 per square mile.

† Mr. Spalding, the secretary of the Massachusetts Prison Association, in a pamphlet entitled "Has Crime Increased in Massachusetts?" shows that, while 1890 gives a large increase in the prison population in that State over 1880, the commitments for six offences, viz., homicide, assault, larceny, burglary, forgery, and coining, which had increased immensely in former years, increased only 25 per cent. from 1881 to 1885, and in the succeeding five years actually diminished. There were, indeed, fewer commitments for these crimes in 1890 than in 1888. It appears, therefore, that, so far as the more serious crimes are concerned, there has been a very great improvement in recent years. The great apparent increase of crime in Massachusetts is attributable to a very large increase in the commitments for drunkenness (10,962 in 1885 and 25,686 in 1890), and to a smaller increase in the commitments for other crimes, exclusive of the six above mentioned. Probably, what is true of Massachusetts is to a great extent true of other States.

## CHAPTER III.

## PROHIBITION.

IT is important to see what "prohibition" really means. In the programme of its advanced supporters it means prohibition of the manufacture, importation, exportation, transportation, and sale of all intoxicating liquors for use as beverages. American prohibition as it exists to-day—"The Maine Law"—falls far short of this, being directed only against production and sale within the particular State having such a law. This limitation is due, not to the voluntary action of the Legislature which enacts the law, but to the peculiarity of the federal system of government which reserves to each State the widest powers of regulating matters affecting only its own citizens, but commits to Congress the power "to regulate commerce with foreign nations, and among the several States."

The complete extent of the right inherent in each State to regulate or prohibit the liquor traffic within its own borders is now well established. It is a part of that very wide and somewhat indefinite element of autonomy, known to constitutional lawyers as the "police power" of the State. Many interesting cases have come before the Federal and State courts, in which the limits of the police power in particular directions have been canvassed; but this is not a treatise on constitutional law, and it is sufficient here to note that the judicial authorities have not generally shown a disposition to contract this power when directed by any State to setting restrictions on the liquor traffic within the area of its jurisdiction. The right to sell intoxicating liquors is not one of those privileges and immunities of citizens of the United States which by the fourteenth amendment

to the Federal Constitution the States were forbidden to abridge.\*

It has, however, been held and appears to be settled law, that a statute prohibiting the mere *keeping* of liquor would not be a legitimate exercise of the police power, and would be unconstitutional, because such an Act affects an individual only and not the public; and the police power deals only with men in their relation to one another. It follows that in a prohibition State the individual citizen is entitled to possess and to drink as much liquor as he pleases, though it is a crime for anyone within the State to sell it to him. I am not aware that a law punishing the purchaser, in cases where the sale is illegal, would be unconstitutional; as a matter of fact, however, prohibitory laws do not contain such a provision.† But if they did, he could still get the liquor from another State not subject to prohibition. This brings us to the question of inter-State commerce.

Prohibitory laws have not infrequently contained a reservation legalising the sale of wine made from fruit grown within the particular State. Such a provision has by some courts been held valid; but the preponderance of authority now shows pretty clearly that such discrimination between States is unconstitutional and void, as an encroachment on the exclusive powers of Congress. Practically, however, nothing of much importance has turned on this question. But two cases, decided in recent years, had a material bearing on the subject of inter-State commerce and the right of a State to interdict the liquor traffic.

Both cases arose in Iowa. The first arose upon a provision in the prohibitory law of that State which forbade any common carrier to bring liquor into the State without having first

\* For a full discussion of this subject, *see* Chapters II. and III. of Black's "Treatise on the Liquor Laws of the United States." This book (published by the West Publishing Co., St. Paul, Minn., 1892) is by far the most complete legal work that has been issued on the subject.

† For an exception, *see* p. 315, liquor ordinance of Pomona (California).

received a certificate from the county auditor of the county into which the liquor was to be transported, certifying that the consignee was authorised to sell it in that county. The decision in this case was that the enactment was unconstitutional as an attempt to regulate inter-State commerce—a decision which holds good to the present day, and which has removed a powerful check on the introduction of liquor into prohibitory States.\* Although the law never purported to interfere with the private possession and use of liquor, still, prior to this decision, obstacles could be and were interposed to its transportation, which affected innocent consignees as well as those engaged in an illicit trade.†

The other case is that in which what is known as the “original package” decision was delivered. A firm of brewers in Illinois consigned cases and kegs of beer to their agent in Iowa, by whom they were sold to customers without being broken or opened. On a seizure being made, the plaintiffs claimed protection under the Federal Constitution; but the courts in Iowa decided against them. The case was carried into the Supreme Court of the United States, which held by a majority that the law of Iowa was unconstitutional and void, in so far as it prohibited the sale of liquors by a foreign or non-resident importer in the packages in which they were brought from another State. The immediate effect of the

\* *Bowman v. Chicago and N.W. Railway Company*, 8 Sup. Ct. Rep. 689, decided in 1888.

† A distinguished resident in a prohibitory State has related to me an instance in which he was subjected to annoyance and vexatious delay in obtaining delivery of a case of wine, which he had ordered on medical advice for an urgent case of sickness in his own family.

It has been held in Iowa that the owner of liquor, which he has purchased in another State, may maintain an action against a common carrier who was bringing it to him, and by whose fault it was lost or destroyed. And if the carrier would defend himself on the ground that the liquor was held for an unlawful purpose, the burden is on him to show that the ownership existed under such circumstances as to constitute the liquor a nuisance. (*Bowen v. Hale*, 4 Iowa, 430.)

decision was to spread dismay in the prohibition States. Brewers and distillers in other States set up agencies in them, and offered for sale their products in barrels, kegs, cases, and even small bottles. "Original package saloons" were opened, and the State courts were flooded with arguments by which it was sought to extend or restrict the effects of the main decision. Nothing but the interference of Congress offered hope to the anti-liquor party. This assistance, however, was soon forthcoming. In August, 1890—within four months after the Supreme Court decision—was passed the Wilson Law, restoring matters to the position in which they had been before that decision, and in which they remain to-day. The law enacted as follows:—

"That all fermented, distilled, and other intoxicating liquors or liquids transported into any State or territory or remaining therein for use, consumption, sale, or storage therein, shall upon arrival in such State or territory be subject to the operation and effect of the laws of such State or territory enacted in the exercise of its police powers to the same extent and in the same manner as though such liquids or liquors had been produced in such State or territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise."

The subject of the present legal status of prohibition need not now be pursued further. Enough has been said to show that each State is entitled to forbid the manufacture and sale of liquor within its own borders, whether by its own citizens or by the citizens of other States acting through agents; but that every individual citizen in a prohibitory State is entitled to obtain liquor from another State for his own use, and to consume it, without interference from the State law.

A Kansas prohibitionist, writing to me in support of the law in that State, after describing the conditions which led to its passage, continues:—

"The resulting law is an absolutely logical and defensible one. It does not prohibit any individual from drinking. It does not



prohibit the sale of liquor.\* It does not trespass a single step on any field save that which is deemed by all to be illegitimate—all, that is, except those who are directly and personally interested to the contrary. As I have never yet met a man who was bold enough to say that there is anything elevating, purifying, or beneficial about a liquor saloon, so, by the same token, no objection can be found with the law which prohibits its existence. That is all our law does. It simply says that no man shall sell liquor for the purpose of making people drunk. It puts that branch of the liquor traffic on a par with opium joints and other institutions recognised everywhere as radically illegitimate."

I give this extract both as showing what the law purports to do and not to do, and as giving the views of one of its supporters in regard to liquor-selling and liquor-sellers.

But it must not be supposed that this limited form of prohibition satisfies the aspirations of prohibitionists. Any further extension of the principle, however, can only be sought at Washington, from Congress; and this is the direction in which the eyes of the more ardent partisans of the movement are now turned. One who for many years has been a leader among them has told me (and others have said the same) that he looks for the triumph of his cause to come as it came to the early anti-slavery men. The old Whig party for long held their ground by the help of the abolitionists, but always disappointing them with half-hearted support. This continued till the abolitionists became too strong to be so put off. Then the Whigs fell to pieces, and the Republican party grew up with the abolition of slavery in the forefront of its programme. So, following this analogy, the triumph of prohibition is to rise out of the ruins of the present Republican party. The defeat of the Republicans in the presidential contest of 1892 is held to be a step towards this consummation.

The attempts hitherto made in Congress in the direction of

\* This must refer either to the right to purchase liquor and bring it in from another State, or else to the right of sale for medical and certain other specified purposes.

national prohibition may be summarised in a very few words. In 1876 an amendment to the Federal Constitution was proposed, forbidding, from and after the year 1900, the manufacture, sale, importation, and exportation of *distilled* liquors. Eleven years later this partial proposition was superseded by one of a more thoroughgoing character, in the following (ungrammatical) terms:—"The manufacture, importation, exportation, transportation, and sale of all alcoholic liquors as a beverage shall be, and hereby is, for ever prohibited in the United States and in every place subject to their jurisdiction," a proposal which has been brought forward more than once. Bills providing for an investigation of the liquor traffic have been repeatedly introduced from the prohibitionist side. But the only measures of importance hitherto passed by Congress, in addition to the Wilson Law (already noticed), have been one forbidding the maintenance of canteens at military posts in prohibitory States, and another forbidding the sale of liquor within a mile of the Soldiers' Home at Washington, thereby applying prohibition in about one-fourth of the District of Columbia.

Prohibitionists complain that the limitations which the maintenance of the rights of inter-State commerce places upon the complete adoption of their principle, add greatly to the difficulty of enforcing the law.\* It may be, however, and has been, suggested that this incompleteness in the application of the principle, unsatisfactory as it is to prohibitionists, and however it may contribute to inadequate enforcement of the law, has at least had the effect of lightening the weight of opposition to the passage of such a measure

\* The chief of the State Police in Rhode Island, during the period of prohibition in that State from 1886 to 1889, gave this as one of the most important causes for the imperfect enforcement of the law, and strongly urged the necessity of making the system national if it was ever to be effective. (Report, January, 1889.) Some prohibitionists look to punitive measures of increased severity as a means of securing a closer obedience to the law.

through the Legislature, and has provided a sort of safety-valve for it when it has been once adopted.\*

It is no uncommon thing for State prohibition, limited as it now is, to receive support from men who are not total abstainers. Such support is in many cases due to considerations of party advantage in politics ; and the operation of this motive has played an important part in the successes hitherto won by the prohibitionists. But there are those who, without being teetotallers, really favour—as well as outwardly support—the movement, through their hostility to the saloon as an institution, holding it to be a nuisance, whether as regards its effects on the health and welfare of those who frequent it, or as regards its disproportionate and corrupt influence in politics. Their contention is based on the existence of a great public evil, political as well as social, and on the necessity of making sacrifices to get rid of it. Only in prohibition do they see any remedy for city, state, and national misgovernment and corruption. I have met men, belonging quite to the active and strenuous section of the prohibition party, who appeared to be influenced even more by the desire of eliminating the political influence of the saloon, than by that of putting an end to drinking and drunkenness. The duty of personal abstinence is, however, in general insisted on by those who take an active part in the movement.

But among earnest prohibitionists there exists a difference, which sometimes becomes very acute and even embittered, regarding the attitude to be taken in general politics. The dispute is between the “third party” prohibitionists, forming

\* It would seem that, logically, prohibition, if adopted in a country having a single Legislature vested with full powers instead of a federal form of government, could hardly stop short of being extended to the importation of liquor as well as to its internal manufacture and sale. In America the rights of the vendors in a neighbouring non-prohibitory State count for something ; but how if the vendors were foreigners ? In any case the delay and difficulty attending the purchase and transit of liquor would be greater when it had to be imported from a foreign country.

the extreme section of the party, who at national and State elections vote the "prohibition ticket," and those who do not thus separate themselves, but seek to further the cause from within the ranks of one of the two great political parties. In the North the Republican party is the one on which prohibitionists of the latter type have centred their hopes ; and, in opposition to the "third party" men, they point to the services heretofore rendered to the cause by the Republicans, and urge that to vote with the third party is to give power to the Democrats, the friends of the saloon. The views of those of the other section have already been mentioned. They look for the disappearance of the Republicans as a party and the rise of a new great party of prohibition of which they themselves are the nucleus.\*

\* In illustration of the acute hostility of the third party prohibitionists to the Republicans, I may cite the following passage from a speech at the Prohibition Convention of the State of Massachusetts, held at Worcester, September, 1889 :—

"The past record of the Republican party, which continues to pose before us as a temperance party, will soon be repeated again, with variations, to keep up the waning courage of the rank and file of its members. As a supplement thereto, which would not be acceptable in their Convention, I offer the following : Prohibition statutes repealed in eleven out of fourteen States where the law was enacted before this party came into power ; constitutional prohibition counted out in Ohio, after being carried by a large majority ; constitutional prohibition being counted out in Michigan, through treachery, cowardice, and fraudulent voting ; constitutional prohibition defeated by voting it down in five States, viz., New Hampshire, Massachusetts, Pennsylvania, West Virginia, and Oregon ; constitutional prohibition refused submission to the people in nearly all the Northern and Western States, and repeatedly so in ten or more of said States ; constitutional prohibition repealed in one State, Rhode Island ; a brewery corporation chartered by the Legislature of Massachusetts. And all this, remember, was transacted in States that were under the control of the Republican party."

At a debate held at Beverly, Mass., shortly before the presidential election of 1892, between prohibitionists representing the two sections, the insincerity of the Republicans in their bids for the prohibition vote was insisted on ; while on the other side their past services to the cause were enumerated, and it was argued that their defeat meant simply the triumph

At the national elections and elections for the chief State offices candidates have for some years been generally put forward by the third party prohibitionists; and the strength of their vote is in some degree a measure of the position held by prohibition in the political world. The growth or diminution of the vote, however, is largely influenced by the attitude from time to time taken up by the Republicans towards prohibition, and the amount of confidence, regarding the strength and sincerity of their attachment to the cause, with which at different times and in different States they are able to inspire the prohibitionists. Thus, where the Republicans have failed, or are supposed to have failed, in acting up to their promises upon this question, the result is an accession of strength to the third party, an accession which may, but does not necessarily, betoken an increase in the ranks of the friends of prohibition.\*

In so far as the general growth of prohibitionist sentiment can be tested by the voting at elections, the figures showing the popular votes cast at presidential contests seem to be the best to select for the purpose, as being the most comprehensive. The absolute strength of prohibition in some particular States has been tested by the votes taken on proposed amendments to their constitutions embodying it as part of their of the Democrats. The latter speaker asserted that on the average there was only one prohibitionist in twenty-eight in the North who believed in the distinct ticket. Prohibitionists of the third party are divided on the question whether the advocacy of female suffrage should be imported into the prohibition cause. Some hold that to mix up the cause with this or any other subordinate issue is fatal to the prospect of success.

\* Temporary local causes sometimes affect the prohibition vote. A prohibitionist in one State told me that some years ago at the election for governor the two great parties had very bad candidates. The Democrats, long the dominant party, ran a man who was said to be a drunkard. The Republican candidate was (I think) a saloon-keeper, or in some way interested in the liquor trade; at all events, he was not well looked upon by a large number of the electors. The result was that the third party prohibitionists polled an unusually high vote. At the next election the Democrats had the best possible candidate, and carried him by a large majority, the prohibition vote relapsing to its normal strength.

fundamental law. These two sets of figures are given in the two following tables :—

POPULAR VOTE FOR PRESIDENT.\*

	Republican.	Democrat.	Pro- hibitionist.	Green- back.	Union Labour.	Populist.
1880	4,454,416	4,444,952	10,305	308,578		
1884	4,851,981	4,874,986	150,369	175,370		
1888	5,440,708	5,536,242	249,665		146,883	
1892	5,175,201	5,554,267	269,299			1,042,531

The prohibitionists polled 0·11 per cent. of the total number of votes cast in 1880, 1·49 per cent. in 1884, 2·16 per cent. in 1888, and 2·22 per cent. in 1892.

VOTES ON QUESTION OF PROHIBITORY AMENDMENT  
TO STATE CONSTITUTION.

STATE.	Year.	Vote on the Amendment.		Vote at Nearest Important Election.
		For.	Against.	
Kansas .....	1880	91,874	84,037	201,236
Iowa .....	1882	155,436	125,677	292,048
Ohio .....	1883	323,189	240,975	721,310
Maine .....	1884	70,783	23,811	142,413
Rhode Island .....	1886	15,113	9,230	26,875
Michigan .....	1887	178,636	184,281	380,885
Texas.....	1887	129,270	220,627	357,513
Tennessee .....	1887	117,504	145,197	303,784
Oregon .....	1887	19,973	27,958	54,954
West Virginia .....	1888	41,668	76,555	159,540
New Hampshire ...	1889	25,786	30,976	90,922
Massachusetts .....	1889	85,242	131,062	344,517
Pennsylvania.....	1889	296,617	484,644	997,568
Rhode Island† .....	1889	9,956	28,315	43,111
South Dakota .....	1889	39,509	33,456	77,827
North Dakota .....	1889	18,552	17,393	38,098
Washington ...	1889	19,546	31,489	58,443
Connecticut .....	1889	22,379	49,974	153,978
Nebraska .....	1890	82,296	111,728	214,090

\* The figures are taken from the "Tribune Almanac." According to the *National Temperance Advocate* (June, 1893), the prohibition vote in 1892 amounted to 270,813. If this is correct, the percentage, as given in the text, should be raised to 2·24.

† This was the submission of the question of repealing prohibition.

Six States have thus passed votes adopting, and eleven have rejected, constitutional prohibition, exclusive of Rhode Island, which adopted it in 1886 and rejected it again in 1889. In Iowa and Ohio, however, the affirmative vote was rendered abortive on technical grounds.

One of the most active prohibitionists in a Southern State favoured me with some remarks on what he thought should be the general political attitude of that party, and, as they indicate a different point of view from either of the two already noticed, I will summarise briefly what I understood to be his views. Though, as a prohibitionist, uncompromisingly opposed on principle to licensing, it was evident that he had no faith in the policy of forcing legislation beyond a certain point. His plan was that the prohibitionists should organise their forces not as a political party, but as a body of citizens desiring a particular thing. If they could show to the dominant party in the Legislature, or to the Legislature in general irrespective of party, that what they called for was the desire of a majority of the people, it was the business of the Legislature, and the interest of any party in it, to satisfy them. When they felt themselves strong enough to make their demand, it was better policy in the long run to adopt a conciliatory rather than a threatening attitude to the dominant party administration. Let them prove their case, and if they had support enough to justify success they would attain it. Above all, let them not form themselves into a separate political party. To do this was to array all parties and persons against them, and meant the destruction of their cause. His experience had been that the Democrats in the South had given him and his friends all that right and reason justified them in asking ; and if they had not got all they wanted, it was because they had not popular support strong enough to warrant their getting it. Popular support and not political pressure was what was needed. And that popular support was to be cultivated and strengthened, not on political lines or through party machinery, but by a

quiet and thorough preparation of public opinion outside of and without reference to politics or parties. It is needless to say that this gentleman had no sympathy with third party prohibitionists and their ways. He pointed to the feeble show they had always made when arrayed as a political organisation against political organisations. The threatening and brow-beating of the Republicans in the North had led and was leading that party to abandon the anti-liquor movement. They had submitted for a time, but had grown restive; and the prohibitionists, in trying to force their cause by political pressure on the party machine, were reaping the natural consequences. They were crying out that the Republicans had betrayed them, and were insincere, which might be true enough; but the fault was with the prohibitionists themselves for setting to work in the wrong way. The end was one which they would never attain by the attempt to force it as an issue on political parties, or by making it the basis of an independent political party; but it was, he thought, attainable through work and organisation altogether outside politics, and when the right time came the legislation would follow almost without difficulty.

Prohibition has, at one time or another, been the law in seventeen States,\* in some of which, however, it can hardly be said to have had any practical existence. At the present time it is the law in seven States—Maine, New Hampshire, Vermont, Iowa, Kansas, and the new States of North and South Dakota; four of which—Maine, Kansas, and the Dakotas—have adopted it into their Constitutions.

The conditions of Maine, Iowa, and Kansas (which may be considered to be the three most prominent prohibition States) will be separately examined in some detail in subsequent pages. The subject of prohibition also enters largely into the

\* Maine, Delaware, Rhode Island, Massachusetts, Vermont, Michigan, Connecticut, Indiana, Iowa, Nebraska, New York, New Hampshire, Illinois, Kansas, Ohio, and the Dakotas.



account given of Massachusetts and Rhode Island, States which have abandoned it and reverted to a licensing system.

Vermont, and (as regards spirits) New Hampshire, adopted prohibition, respectively, in 1852 and 1855. In the latter State the sale of beer has been forbidden since 1878; a proposition to make prohibition constitutional was rejected in 1889. New Hampshire also is peculiar in forbidding the sale only, not the manufacture, of intoxicating liquors. Attempts to pass a licensing measure have been made more than once in recent years in this State and have not fallen very far short of success, being defeated in 1889 by 144 votes to 118, and in the following year by 166 to 148.\*

The two Dakotas have been elevated to the rank of States so recently, they are as yet so sparsely settled, and their experience of prohibition has been so short, that perhaps no great significance ought fairly to be claimed for the effects of the system in these States on one side or the other. In South Dakota a movement in the Legislature during the present year for resubmitting the question to the popular vote was defeated, but it would seem not without difficulty.†

\* A distinguished lawyer of New Hampshire has told me that prohibition was carried in that State as a party measure for the sake of securing prohibitionist support, and that it has never been well enforced. I have heard a similar account also from other sources, but did not visit either that State or Vermont.

† A resident in North Dakota gave me the following account of prohibition in that State:—The two largest towns are on the eastern border, adjoining Minnesota. Prohibition works well enough in them because just across the Red River are high-licence towns which supply all necessities. At the town in which my informant lives, a small town at some distance from the eastern border, there are two “blind pigs,” and the apothecaries also dispense liquor to persons who know the ways. (In a passage leading to the back premises a large bottle of whisky is placed. People help themselves, and pay as they please.) At Bismarck, the State capital, which is further west, drink is sold much more openly. His experience leads him to the conclusion that if prohibition is enforced too rigorously the spirit of resistance grows too great for the law, and the evils of drinking become worse than under a licence system; some relaxation is

The other five States fall naturally into two divisions, three of them belonging to the group of New England States, while the other two are among the more newly settled States of the interior. They present some characteristics to which I desire to draw attention, without undertaking to assign the significance, whether great or small, which should be attached to them in connection with the question of prohibition.

If reference is made to the table on p. 19, it will be seen that the first or "North Atlantic" group of States\* comprises New England, with New York, New Jersey, and Pennsylvania, these together forming the old established States of the North. A glance at the second column shows that the three prohibition States are far more sparsely populated than the rest. The third, fourth, and fifth columns show that the increase of population has been markedly less rapid in these three States than in all the others (in Vermont, indeed, there has been scarcely any increase at all); and that the percentage of "urban" population is very much smaller.

Massachusetts and Rhode Island, the most thickly populated and most "urban" of all, have both made trial of prohibition, and have reverted to licence, with local option.

Kansas and Iowa do not hold so peculiar a position in the Northern Central group as do the three States just mentioned in theirs; but the States in this group are, in general, much more newly settled and less thickly populated than those in the former group. Iowa, it will be seen, has just the same number

necessary as an escape valve. The farmers, he says—including those who are not total abstainers—favour prohibition. When they come into town, instead of finding open saloons, and neglecting their business, and getting drunk, they buy a bottle of whisky and take it home with them.

I give this statement as I heard it. My informant was a representative man and must have been well acquainted with the circumstances. He did not appear to have any very strong predilection, but was inclined to favour the law so long as it was not enforced too much.

\* The grouping of the States is that adopted by the authorities of the census.

of inhabitants to the square mile as Vermont, while Kansas has only half that number. And a reference to the fifth column shows that, even in their own group, the urban section of the population in these two States is lower than in the rest, except the Dakotas, and far below the average of the group.\*

Turning to the columns in the same table relating to the prison population, we find that in the first group the three prohibition States are again distinguished for their low rate of crime, a circumstance which, it has been suggested, is wholly or partly attributable to the sparsity of their population and the absence in them of large cities. Iowa, also, stands in this respect below the average of its group; but Kansas is far above the average, showing, indeed, the highest ratio of all the Northern Central States.

As regards pauperism, Vermont has a lower ratio of indoor paupers than the average, and Maine slightly lower than the average; while New Hampshire has the highest ratio of all. Iowa and Kansas both give a low return of paupers.†

Upon the subject of the enforcement of prohibition little will be said in this chapter. This important subject can best be studied in connection with the particular States which have chosen to adopt prohibition, and the reader is referred to subsequent pages dealing separately with Maine, Iowa, and Kansas, and with the ex-prohibition States, Rhode Island and Massachusetts. The largest town now under State prohibition is Des Moines, the capital of Iowa (population,

\* The falling off in the increase per cent. of population during the decade 1880—90, as compared with 1870—80, was greater both in Kansas and Iowa than in the other Northern Central States.

† Statistics of pauperism are apt to be extremely misleading, unless due allowance is made for differences of practice in administering poor relief. In the Northern Central Group, Ohio shows by far the highest ratio of paupers. For some strictures on the way in which the poor law is administered in Ohio, *see* p. 285.

50,000).\* The town in which it is most strictly and successfully enforced (among those of any considerable size) is, perhaps, Topeka, the capital of Kansas (population 31,000). The wide gulf which sometimes separates the will to pass a prohibitory law, or to oppose its repeal, from the determination to give full practical effect to it is elsewhere noticed. As was once said by the governor of a State in which prohibition was undergoing a not very successful trial: "Laws may represent public opinion, but their enforcement is dependent almost wholly on the public will as contradistinguished from public opinion." I have myself met with prohibitionists who have attributed to official misfeasance the whole blame for failures to enforce prohibition. However that may have been in particular cases, it was certainly not the view of the majority of the supporters of this system with whom I conversed. The more general opinion among them was that the successful vindication of the law depended in no small degree on the existence of a substantial body of popular feeling behind it. Not only has this in very many instances been wanting, but officers have been elected on the distinct understanding that they should wholly or partially close their eyes to breaches of the law. Some prohibitionists have expressed to me in strong terms their sense of the difficulty of securing—unless for short periods and under pressure of an exceptional impulse—the active participation of private citizens in the work of finding and prosecuting offenders. Zealous officials, and a preponderating public sentiment—strong, steady, and active—are, I think, according to the view of most thoughtful prohibitionists, necessary elements for success in cities and populous places; and it would be difficult to point to more than a very few cities of any considerable importance where these conditions have as yet prevailed. Some who are in complete sympathy with the principle of prohibition have

\* Two or three larger towns in Massachusetts are under prohibition by local option.

expressed to me their entire disbelief in the possibility of suddenly and peremptorily cutting off the supply of drink from people determined to have it, and their conviction that the desired goal can only be attained by a gradual advance side by side with the progress of a preponderating public opinion in that direction. In rural districts I found no evidence, in the declarations of either friends or foes, of any glaring and widespread resistance to the law. How far this is due to the force of the law, and how far to the weakness of the demand for liquor, I do not undertake to estimate. The active pressure in support of prohibition comes mainly (apart from special organisations) from the farmers.

Even while recognising the difficulties of enforcement, and admitting the failures, prohibitionists argue that, taken at its worst, it is better than any other system. The open saloon is the head and front of the mischief: drive out the open saloon (they say), and you have done much, whatever surreptitious drinking may go on. Young men who have not acquired the habit of drinking will not seek their way to foul places for the sake of acquiring it: let drinking be made disreputable, and the more so the better. If people cannot obtain drink without doing something which they are ashamed to do, they will in the great majority of cases go without it.\* And it is maintained

\* I have heard it urged in depreciation of this argument, that the fear of doing anything which might shock "respectability," though extremely strong in some classes of society, has less force in others, and that the driving of the business into holes and corners can only have demoralising results among the latter.

Prohibitionist writers and speakers cannot on the whole be fairly charged with remissness in the endeavour to make the liquor traffic appear odious and disreputable. The vocabulary of invective has, by the extreme section of the party, been plentifully poured, without respect of persons, on all connected with the production or distribution of alcoholic drinks; and those who venture in public to dissent from the statements and conclusions of the prohibitionists may confidently expect to have their moral obliquity pointed out. An American deeply interested in social questions, who has given special attention to the liquor problem, and is as far as possible

with confidence that prohibition has in fact greatly diminished the consumption ; while at the same time its mere existence in the Statute-book is of value in educating the popular mind to a more perfect recognition of its merits.\*

Upon the question of the amount of consumption, a few words have to be said. In the first place, it is, so far as any particular State is concerned, an unascertained quantity. There are no official figures, and no trustworthy figures that are not official, which give this information. The quantity produced in the several States is known ; and the quantity exported from the country is known ; the difference between the two, added to the amount of liquor imported, gives the total consumption in the country. But, when once a keg of whisky has paid the Excise or Customs duty, it is impossible to trace it further. Trade organisations do indeed issue tables purporting to show the consumption of beer or distilled liquor by States. Such figures are probably based on the examination of the books of brewers or distillers ; but it is more than doubtful whether the result of any such examination can be accepted as a complete

removed from hostility to the principle of prohibition, has told me that he has been the object of vehement denunciation for expressing his doubts as to the universal applicability of the principle, and as to the validity of some of the arguments and statements of prohibitionists ; and in particular for some unorthodox remarks which he made about high-licence in large cities. A professor in a State university, with whom I had some conversation, complained strongly of the way in which this and other economic questions were handled, being always dealt with from partisan points of view on one side or the other. Facts (he said), so far as they were examined at all, were made to yield just such inferences as the inquirer wanted. A scientific study was rarely undertaken, and he who undertook it was exposed to all the bitterness and hostility of politicians the insecurity of whose "platform" might be revealed by the flash-light of truth. He found himself very much hampered in university work and in delivering public lectures, and publishing anything in print, upon public questions relating to social or political science, by the tyranny of "politics" and politicians.

\* With respect to legislative prohibition as an educator of public sentiment, *see* Kansas, pp. 141-143.

and accurate return. In the absence, therefore, of positive evidence, conclusions are necessarily matters of opinion, based on personal observation, or collateral evidence (such as statistics of crime,\* wealth, and pauperism), or on reasoning by probabilities ; sometimes, perhaps, on prejudice pure and simple.

As regards crime and social statistics something has already been said, and more will be found in connection with individual States. Statistics of arrests for crime, and particularly for drunkenness, naturally and rightly attract attention in connection with the question of the efficacy of liquor laws. They have their value; but are not unlikely, sometimes, to lead to false conclusions if too much reliance is placed on bare figures. An increase in the number of arrests may mean more crime; or it may mean a sharper administration; or it may mean a change of law, either making acts criminal which before were permitted, or rendering crimes more easy of detection. Variations of administration are specially apparent in the treatment by the police of drunkenness in the streets: a mere alteration in the instructions given to the patrolmen on their beats may produce a most marked effect on the returns of arrests for drunkenness at the end of the year, without indicating really any change whatever in the habits of the people, or in the law, or in their respect for it. Under prohibition, it has been stated, as being the experience of some police authorities, that a diminution in the amount of drunkenness in the streets has been wholly or partly due to the greater secrecy with which drinking is carried on, the liquor-seller being afraid of detection if he allows a drunken man to reel out of his premises.† Due allowance should be made for these and the like considerations in drawing inferences from returns of crime.

The value of statistics of wealth, as bearing on the subject of prohibition, is extremely difficult to measure in a country

\* See Note on Drink and Crime at the end of this chapter.

† See, as to drunkenness in Providence, R.I., while under prohibition, p. 186.

advancing by leaps and bounds as America has advanced during the last few decades. Moreover, the methods adopted in the valuation of property for taxation are very unequal in their results. The value as assessed is generally far below the true value, but the assessments are not uniform.\*

Among a large number of persons holding all shades of opinion, with whom I have conversed, not a few (outside the ranks of the pronounced prohibitionists)—some even who decidedly did not favour legislative prohibition—have expressed with much confidence their belief that that system had greatly diminished the whole volume of drinking; and some claim to have themselves observed a marked improvement in the circumstances of working-men and their families arising from the removal of the saloon.†

On the other hand, evidence is forthcoming from equally untainted sources to a different effect. I have been told by one, who as a parish clergyman had lived in three different States under prohibition, and who, though not a prohibitionist, was a strong “temperance man,” that he had always noticed that system to be accompanied by an increase of home drinking and an increased tendency among young men to take to liquor. As minister of a church in the poorest part of a large town, in which the success of prohibition was being loudly proclaimed by its advocates, he found drunkenness still the great evil against which he had to contend. In another State, in which he was in charge of a parish at the time when prohibition came

\* The assessed valuation of Chicago, as returned in the census, was greater in 1880 than in 1890, the reason assigned being that the assessed value was 50 per cent. of the true value in the former year, and only 25 per cent. in the latter.

† *See*, as to effect of prohibition in Atlanta, p. 322. An architect, who for a time immediately preceding and succeeding the introduction of prohibition in Iowa was engaged in some work at Des Moines, told me that he found a marked change in the circumstances of some of his workmen to have resulted from it. During the winter these men would be apt to require charitable relief, but after the saloons were closed they got through the winter without assistance, saving the money that used to go for drink.



into force, his experience was that it distinctly led to drinking, developing the drug store saloon, and leading people to take liquor home with them. It was, he said, a general rule, rather than an exception, that a stock of liquor came into houses where none had previously been kept.

The results alleged to have followed prohibition in Atlanta, Georgia, are noticed elsewhere, and supply a striking instance of one of the charges most frequently brought against prohibition by its opponents.\*

The allegations of fact on which these two conflicting views are based are not necessarily inconsistent with one another. It is easy to imagine that prohibition might contract the whole volume of liquor consumed, while at the same time it produced certain ill results of greater or less magnitude. It is argued that the extent of the evils of drink cannot be measured merely by reference to the whole amount consumed; that if ten men have a bottle of whisky among them, it will on the whole do less harm if they all share it equally, than if nine of them take nothing, while the other one drinks half the bottle and spills the rest. Many prohibitionists would rejoin that the nine, as long as they abstained, were safe, while if each drank his share they would all be travelling dangerously near the road to ruin; if, therefore, prohibition reduces the total consumption of alcoholic liquor, that means that it increases the number of people who drink none; and this is a sufficient justification for it, even if it is true that certain bad results have also followed its adoption. It is unnecessary for the present purpose to follow these arguments further. My object is rather to note the fact that both these two views of the results of prohibition—contraction of the whole volume of liquor consumed, and increase of drinking in certain particular directions—are confidently and honestly held by persons who have seen the system in operation; and it can hardly be doubted that there are substantial grounds for both of them.

\* See also Massachusetts, p. 190; Iowa, p. 168.

Connected with the question of the amount of liquor consumed is that of the extent to which illegal selling goes on. This must be considered in detail, in relation to individual States. Reference, however, may here be made to the table printed on pp. 17, 18, in which the number of liquor-dealers paying, as such, the United States tax in each State is given. The United States Government collects a tax from every person (irrespective of the State laws) who manufactures or deals by wholesale or retail in intoxicating liquors. Obviously, in prohibitory States, the payment of this tax is of itself in many cases strong *primâ facie* proof of a breach of the law. And by the law of those States it is generally so regarded. The proportion of tax-paying retail liquor-dealers to population is as follows in the prohibitory States and in a few other non-prohibitory ones, which are added for the sake of comparison:—

## PROHIBITORY STATES.

Maine ... ..	1 to 647	} Average 1 to 428
New Hampshire ... ..	1 to 205	
Vermont ... ..	1 to 742	
Iowa ... ..	1 to 386	
Kansas ... ..	1 to 571	
North Dakota ... ..	1 to 559	
South Dakota ... ..	1 to 299	

## NON-PROHIBITORY STATES.\*

Massachusetts ... ..	1 to 437	} Average 1 to 352
Pennsylvania ... ..	1 to 413	
Illinois ... ..	1 to 208	
Minnesota ... ..	1 to 393	
Nebraska ... ..	1 to 438	
Georgia ... ..	1 to 864	

\* Of these six States, Massachusetts and Pennsylvania are old States with large urban populations, high-licence, and restriction on the number of saloons, the former having also local option. Illinois contains Chicago, which has a very large drinking population and a great many saloons. Minnesota and Nebraska are high-licence States of the interior, their general conditions being not dissimilar from Iowa and Kansas. Georgia is taken as a representative local option State of the South.

The disparity is perhaps less marked than the difference in their liquor laws would have led one to expect. The six selected non-prohibitory States do indeed show a lower average of taxpayers than that for the whole country, which is 1 retail liquor-seller to 278 inhabitants. A single State, however, is largely responsible for this high ratio. If California is omitted, the average for all the remaining States and territories is 1 to 339; and if New York is also left out, there remains an average of 1 retail liquor-seller to 393 inhabitants in the whole country, exclusive of those two States—a ratio lower than that of the six States in the above table, and not much higher than that of the prohibitory States.

Whether a larger number of persons who sell liquor shirk the United States tax in prohibitory than in other States is a question to which a decisive answer cannot be given; but the allegation that this is the case would at least seem to be not devoid of probability. The only persons who can legally retail liquor in the prohibition States are those who are authorised under stringent regulations to do so for medicinal, mechanical, and the like special purposes. In Kansas and Iowa this business is allowed to be carried on by druggists holding permits for the purpose, which are granted only in accordance with a procedure such as attends the granting of a licence under a strict licensing law. In Maine and Vermont a different plan is adopted, and liquor required for the excepted purposes can be sold only by an agent whom the local authority of each city and town may appoint if it thinks fit.\*

I have no information of the number of these permit-holders and city and town agencies, but I believe there is no doubt that they do not nearly correspond with the number of United States liquor taxpayers. Many druggists in Maine pay the tax,† and I endeavoured to ascertain with what legitimate

\* Some account of the mode in which business is conducted in the City Liquor Agency of Portland, Maine, will be found on p. 107.

† See, as to druggists in Portland, p. 106.

object they might pay it. They clearly may not sell for the excepted purposes, since only the authorised agent may do that. I at first thought that perhaps the keeping of liquor, not for sale as such, but for use in compounding drugs might render a druggist liable to the tax, though not amenable to the State law. A lawyer in Maine, however, from whom I sought counsel, writes as follows:—"The answer to your question—'For what purpose, requiring payment of United States liquor tax, but not illegal according to State law, do apothecaries keep intoxicating liquors?'—is that the law of the United States requires persons engaged in the retail liquor business to pay a special tax. Apothecaries who simply use intoxicating liquors for the purpose of compounding medicines are *not* retail liquor dealers under the statute, and consequently are *not* required to pay the special tax. It is not illegal under the State law for apothecaries to keep liquor for the purpose of compounding medicines. It is only when apothecaries keep liquor for sale *as such* that they must pay the tax or are liable to the penalties of the State law."

I am quite unable to say why apothecaries in Maine (or in any other prohibitory State if they are not permit-holders) should pay the retail liquor tax unless they intend to sell liquor in defiance of the State law.

It should be noted also that the number of retail dealers who pay for *malt liquor* only is not inconsiderable in the prohibition States, as also of wholesale dealers (who are not allowed to sell in quantities less than five gallons at a time); and most of these States are not entirely devoid of breweries and distilleries.\*

The necessity of allowing the traffic in alcoholic liquors for medicinal, mechanical, and other purposes for which they are required for use otherwise than as a beverage, has been one of the difficulties in prohibitory legislation. The limitation by medical prescriptions, or sworn statements made to specially

\* See table on pp. 17, 18.

authorised apothecaries, has often been found to be much abused, notwithstanding the elaborate restrictions under which the sales are required to be made. The town agency might appear more likely to be strictly conducted, but municipalities have certainly not always exercised great vigilance over the conduct of the agencies. Some laws allow only pure alcohol to be sold for the excepted purposes. And in examining the special prohibitory laws affecting particular counties or towns, so common in the Southern States, I have found a good many instances where the permission to sell for the excepted purposes either has not been given, or has been withdrawn by a subsequent Act as being found impossible to be kept clear of abuse.

There appears to be good reason for the statement (which *primâ facie* seems probable) that prohibition is more readily made effective against malt liquor than against spirits, and that the average quality of the liquor surreptitiously sold under prohibition is inferior. Beer barrels are too bulky to be easily handled where secrecy and concealment are required. The experience of the "Rum Room" of Portland (Maine), where seized liquor is stored before being destroyed, gives direct evidence of this fact, as also of the low quality of the whisky. There was also evidence that on the repeal of prohibition in Massachusetts a diminution of the trade in distilled spirits ensued, owing to the increased consumption of beer.\* And, if exigencies of space render it difficult—where the civil power is inquisitive—for the drug-store saloon and illicit drink-shop† to dispose of malt liquor, it is still more evident that the stock-in-trade of that most pertinacious and elusive violator or

\* See p. 197.

† The names for places where drink is surreptitiously obtained are many. "Joints," "dives," "kitchen bar-rooms," "speak-easies," "blind pigs," "blind tigers," "holes-in-the-wall"—these are some of the terms in common use in different parts of the country. The existence of such places is, of course, not confined to areas under prohibition. The peculiarity of the "hole-in-the-wall" is that the seller and buyer do not see each other.

prohibitory laws—the pocket peddler or “bootlegger”—must be as concentrated and portable in form as possible.

For purposes of sale, liquor has been concealed in eggs, in receptacles made to resemble books (especially Bibles, or works whose titles—such as “History of the Bourbons,” “History of Oporto,” etc.—suggest the true nature of their contents), and in a hundred other ways, more or less ingenious.

Some considerable evasion of prohibitory laws must undoubtedly be imputed to the sale, especially by druggists, of pseudo-“temperance” drinks, under such names as “bay rum,” “essence of peppermint,” “essence of Jamaica ginger,” “spirits of camphor,” “Johnson’s anodyne liniment,” “sweet cider,” “crab apple cider,” “hop tonic,” “hop tea,” “maltase,” “extract of hops,” and the like, some of which are highly intoxicating. “Jamaica ginger,” for instance, is said to contain a considerably higher percentage of alcohol than is contained in whisky. Whisky also is itself sold as “cold tea,” “white ink,” and under other aliases; and beer as “ginger ale,” etc.

As to the extent and methods of the injurious adulteration of liquor, it is difficult to come to a clear conclusion. Adulteration, so far as it exists at all, is not, of course, restricted to places where prohibition reigns; but the liability to seizure and confiscation of the liquor (not to mention the seller’s chances of fine and imprisonment) obviously supplies a strong motive for keeping the outlay on stock as low, and the profits of the business as high, as possible. I have often heard disbelief expressed in the existence of much injurious adulteration. In Boston and other places, at different times, samples of whisky taken for analysis have revealed much dilution with water and a certain amount of adulteration with colouring matter, but little or nothing absolutely hurtful. At the same time, the belief that great mischief is done by impure liquor is very general. Much, no doubt, is due to the pernicious effects of the fusel oil inherent in new spirit; but in the face of the strong popular belief, and the stringent laws in some States

against adulteration, it is difficult to doubt that it is practised to a serious extent.\*

\* In the law of Illinois the following adulterants are specifically mentioned:—Cocculus indicus, vitriol, grains of paradise, opium, alum, capsicum, copperas, laurel water, logwood, Brazil wood, cochineal, and sugar of lead. I have been told that an immense quantity of very inferior stuff is sold, having a basis of "high wines" or alcohol, with colouring and flavouring matters added; the mischief is done by the fusel oil. Whisky ought to be kept not less than four years, to let the "snakes" evaporate. The following extract is in point, but I know nothing as to the accuracy of the report or of the witness's statements:—

"WASHINGTON, February 6, 1893.—To-day's session of the Subcommittee of the House Judiciary Committee investigating the Whisky Trust was devoted to watching the experiments by Veasey in producing liquors by adulteration. Taking spirits worth \$1.30 per gallon and adding essential oils, essence, and colouring matter worth one cent and a half, he produced in a few minutes whiskies, rums, and gins, such as sell in the market for as high as \$4. He declared half of the goods sold were adulterated. Veasey urged that certain witnesses, names not given, be called as soon as possible, as some of them would find it convenient to go to Europe."

#### NOTE ON DRINK AND CRIME.

The proportion of crime due to drink is often stated by ardent prohibitionists, with more emphasis than accuracy, to be nine-tenths of the whole. Those of a more cautious temperament admit this estimate to be exaggerated, and recognise the difficulty of ascertaining the true proportion. One specially conversant with the criminal statistics of the State in which he holds office, and by no means hostile in principle to prohibition, has told me that many wild statements of this kind go uncontradicted, because anyone who demurs to or refutes them is set down as an enemy to temperance; that he himself receives letters, which he does not care to answer fully and openly, asking him to confirm such allegations out of his official knowledge; but he has no doubt that crime in general is very much less the effect of drink than many people suppose. A temperance lady goes and delivers a sympathetic address to the prisoners in a jail, dwelling on the terrible evils of drink, and its awful consequences in turning good, respectable men into criminals. Then she calls on those who were brought to their present unfortunate condition by this cause to hold up their hands. Nearly everyone holds up his hand. Therefore, nine-tenths of crime is the result of drink. There is, as I have been repeatedly told by persons with prison experience, a strong tendency among convicts to "put it on the drink." A man determines to commit a crime: he fortifies himself with

a dram; he is caught, and says he was brought to it by drink. As a matter of fact a large class of criminals could not carry on their profession if they were drinkers. Liquor has enough crime to answer for without any need for exaggerating it. The proportion can, of course, be greatly increased by including drunkenness itself (unaccompanied by any other offence arising out of the drinking).

The most systematic attempt that I have heard of to ascertain the relation of drinking to crime was undertaken in Cumberland County (Mass.) in 1879—80, under the direction of Colonel Carroll D. Wright, when it appeared that (the offence of mere drunkenness, which comprised a large majority of the whole number of cases, being excluded) 45 per cent. of the offenders were in liquor when the offence was committed; in assault cases (minor), 56 per cent.; in robbery, felonious assaults, and manslaughter, 60 per cent.; in higher offences against property, 26 per cent.; in lower offences against property, 40 per cent. A large number were said to have had drinking antecedents in themselves or in others which induced the crime; 25 per cent. were teetotallers, and 28 per cent. excessive drinkers. (As to drinking habits of criminals in Canada, *see* pp. 395-397.)

In the present year this question was again before the Legislature of Massachusetts, and it was hoped that a new inquiry on an extended scale would be undertaken, under the direction of the bureau of labour statistics.

In the United States Census of 1890 (*Census Bulletin*, No. 182, "Homicide in 1890"), an exceedingly elaborate analysis is made by the Rev. F. H. Wines of the returns relating to prisoners charged with homicide, numbering altogether, throughout the United States, 7,386. This figure comprises as well those under sentence of death or serving a sentence of imprisonment, as those awaiting trial, the latter class comprising little more than one-eighth of the whole number. It comprises also those charged with manslaughter as well as those accused of the various degrees of murder. The law of New Mexico recognises as many as five different degrees of murder; Florida, Wisconsin, and Minnesota three degrees; while comparatively few States treat murder as a single offence, without subdivision. In some seven or eight States, two, three, or even four degrees of manslaughter are recognised; while in others this crime is divided into voluntary and involuntary. Rhode Island, Michigan,\* and Wisconsin are the only States which have struck the death penalty out of their code; but several others permit a sentence of imprisonment for life as an alternative for capital punishment. In Kansas the execution of the death sentence is required to take place at such time as the governor in his discretion may appoint; and the result has been that a large number of murderers have been kept indefinitely in confinement awaiting a date which is never fixed. Executions have of late been rarely carried out in this State. In 1890 forty-nine

\* Michigan has, in 1893, reintroduced capital punishment. In the same year its abolition in Nebraska was proposed.



convicts were then awaiting execution, some of whom had been sentenced years previously.

In considering the following figures, it has to be remembered that a murderer who suffers the capital penalty disappears from the list, while one who is sentenced to penal servitude, or over whom execution of the death sentence is pending, is included in the return so long as he remains in confinement; and the increased ratio of homicides in 1890 over 1880 may, in part at least, be accounted for by the fact that the returns for the later year included persons whose crimes were committed more than ten years previously.

The table following shows, by States, the ratio of homicides to population, the figures representing the number of homicides per million inhabitants:—

States and Territories.	Ratio.		States and Territories.	Ratio.	
	1890	1880		1890	1880
[ <i>North Atlantic.</i> ]	[62]	[50]	[ <i>North Central, cont.</i> ]		
Maine ...	64	45	Missouri ...	87	108
New Hampshire ...	53	49	North Dakota ...	66	} 22
Vermont ...	72	33	South Dakota ...	64	
Massachusetts ...	38	47	Nebraska ...	66	135
Rhode Island ...	43	40	Kansas ...	121	88
Connecticut ...	82	74			
New York ...	79	55	[ <i>South Central.</i> ]	[232]	[165]
New Jersey ...	54	56	Kentucky ...	236	112
Pennsylvania ...	55	42	Tennessee ...	168	117
			Alabama ...	222	138
[ <i>South Atlantic.</i> ]	[123]	[87]	Mississippi ...	168	179
Delaware ...	36	55	Louisiana ...	293	189
Maryland ...	81	103	Texas ...	327	281
District of Columbia	43	51	Oklahoma ...	—	—
Virginia ...	98	98	Arkansas ...	176	133
West Virginia ...	88	52			
North Carolina ...	86	46	[ <i>Western.</i> ]	[276]	[273]
South Carolina ...	137	87	Montana ...	340	26
Georgia ...	189	121	Wyoming ...	82	241
Florida ...	289	115	Colorado ...	184	237
			New Mexico ...	358	117
[ <i>North Central.</i> ]	[80]	[73]	Arizona ...	906	371
Ohio ...	59	43	Utah ...	96	28
Indiana ...	103	79	Nevada ...	896	739
Illinois ...	95	87	Idaho ...	308	215
Michigan ...	84	65	Washington ...	120	266
Wisconsin ...	75	54	Oregon ...	172	109
Minnesota ...	50	67	California ...	346	354
Iowa ...	60	57			

It appears from the foregoing table that of the three prohibition States

in the North Atlantic group, Maine and Vermont have a ratio of homicides in excess of the average in that group, while in New Hampshire the ratio is below the average. In each case there is an increase over 1880. In the case of New Hampshire this increase is but slight, but in Maine and Vermont it largely exceeds the average increase for the group.

In the Northern Central group, Iowa shows a ratio below, and Kansas above, the average; but both show an increase over 1880. The Dakotas, also prohibition States, have a lower ratio, but a large increase over 1880; these States, however, are so newly formed that their conditions, perhaps, hardly approximate to those of the other States in the group.

In the prohibition States of New England the negro element hardly comes into account: in Kansas about one-fifth, and in Iowa one-eleventh, of the homicides are charged to negroes.

It seems that in Iowa seven, and in Kansas five, executions took place in 1890; in the three New England States none.

In the same bulletin an analysis is made of the habits of prisoners charged with homicide as to the use of intoxicating liquors, from which it appears that throughout the whole country those returned respectively as total abstainers and as drunkards were almost identically equal in number, with a very slight preponderance of the former. "Occasional" and "moderate" drinkers numbered about three times as many as either of the others; while about one-eighth of the whole number were returned as "unknown." Thus,

1,282	were total abstainers.
703	„ occasional drinkers.
3,126	„ moderate „
1,267	„ drunkards.
973	„ unknown.

In commenting, at the conclusion of the bulletin (which covers 76 pages), on the "demonstration which it furnishes of the erroneous nature of certain prevalent beliefs," the writer remarks: "Intemperance is a cause of crime, though a less active and immediate cause than is popularly supposed. But 20·10 per cent. were total abstainers, and only 19·87 per cent. are returned as drunkards."

## CHAPTER IV.

## LOCAL OPTION.

ATTENTION was drawn in the last chapter to the fact that, though there are many Americans who object to prohibition on principle, as being an undue interference with personal freedom and a piece of pernicious sumptuary legislation, it is, on the whole, remarkable how large a proportion even of those who are opposed to the system are unaffected by any such considerations. Over and over again I have found men (and not teetotallers only) saying that they would vote for prohibition if it could be enforced, but that they are convinced it is useless or worse than useless, except where it is strongly supported by local popular feeling. Among the advanced prohibitionists themselves there are not a few who consider such support to be indispensable for a really efficient enforcement ; who admit that under existing conditions, even if prohibition be carried in any State by a large majority, it is not likely to be well enforced in any particular locality in the State which does not want it.

Such an admission, it is urged, supplies a powerful argument for local option as against State prohibition ; and the principle of local option is very widely accepted as being reasonable, and as promising, in many places, beneficial results, by enabling prohibition to be adopted in just those places where it can be enforced.

Thorough-going prohibitionists have little liking for local option, which they hold to be "too local and too optional." Some go further and say that it is positively injurious to the cause of temperance, entrenching the liquor trade in the cities, and making people indifferent to the only true remedy.\*

\* A prohibitionist writer and lecturer, Mr. Axel Gustafson, in giving evidence before the Canadian Royal Commission, declared local option to be a tissue of "illusions, elusions, and collusions." According to his view,

Others, again, support it with more or less zeal, on the ground that it is, at least, a step in the right direction, and a measure calculated to have a salutary effect in educating and preparing the public mind to welcome what they consider a better and more thorough solution of the liquor problem.

Local option in the most commonly understood meaning of the term—the power to close all liquor shops within a given area by vote of the inhabitants (the “direct veto”)—forms part of the liquor law in a large number of States in all parts of the country ; but its chosen *habitat*, where it flourishes with the greatest vigour, is the South. Though legally enacted in several of the northern States, there is, I believe, only one of them—Massachusetts—in which it has at the present time any really extensive operation. In several others, indeed, a vigorous effort has been made to give effect to it, but without lasting success.\* In the South, however, it seems to be firmly established, and has driven the open saloon out of a large proportion of the rural districts ; and in principle, at least, if not in practice, it receives much support in the North. In Minnesota, for instance, there has been recently a disposition to move for a wider recognition of it by the Legislature, and in

it implies the treating of the question as one of mere expediency, and injures the moral side of it ; it can be enforced where the traffic is weak ; where enforced, it is at the expense of other areas ; it is never enforced except in a rural area (unless as a nine days’ wonder) ; it makes its supporters the opponents of prohibition, as has been proved in the United States, where those who have voted for local option have voted against a State law of prohibition ; much more liquor (he affirmed) is sold in the States which have adopted local option than in the same States before they adopted it. Drink, in his view, is not a local but a national question ; the thing to be suppressed is not the liquor traffic or the saloon, but *drink*.

“With all that can be said in its favour, it must nevertheless be confessed that local option affords an opportunity for the saloon to become the most active, offensive, and corrupt factor in politics.”—(Rev. H. Montgomery: “Open Letters to the Citizens of Massachusetts.”)

\* See especially the account of local option in Michigan and Missouri, in subsequent chapters. Illinois, also.

Pennsylvania an unsuccessful attempt has been made in 1893 to pass a local option law.

In Canada the local option law passed in 1878 by the Dominion Parliament appears, after a short period of activity to have fallen out of favour with the anti-liquor party, who are now turning their attention more particularly to an agitation for complete prohibition, either by provinces or throughout the whole Dominion. An older and less comprehensive local option law, however, extending only to Quebec and Ontario, has had a steady operation in the former of those provinces, and within the last two or three years has shown signs of renewed vitality in the latter. But the failure of the Scott Act in Ontario has struck a severe blow in Canada at public confidence in the efficacy of local option.\*

In comparing the methods adopted by different Legislatures which have embraced the principle of the direct veto, some important variations of detail present themselves. First, as regards the area of adoption, opinions differ whether the county or a smaller division should be taken. The more ambitious spirits among the optionists favour the county as the unit, reserving (perhaps) the larger towns or cities for separate treatment. In support of this view it is argued that, where prohibition is adopted in a very small area, the chances are great that it cannot be made effective, because people can so easily get drink at no great distance. Moreover, it is said that the towns where "no licence" is voted are in danger of losing trade, because the country people, where they have the choice, are apt to come to market and seek their supplies in towns where liquor is sold, and will travel a somewhat longer distance for that purpose, avoiding the prohibition town where they would naturally find their market.

The objection to the larger area is the probability of a less efficient administration. The Scott Act, which had so

\* For some account of local option in Canada, *see* Chapter XX.

unsuccessful a career in Ontario, was local option by counties and cities ; and its failure has by some been in part attributed to the too great extent of the area of adoption. The older Dunkin Act, which can be adopted by townships, has in the long run shown greater vitality than the Scott Act, and is now in force in a considerable portion of the province of Quebec. In Michigan and Missouri States, where local option, after attracting much attention a few years ago, does not exhibit an encouraging aspect at the present time, the area of adoption is the county. On the other hand, Massachusetts, in which the principle shows far more vigour than in any other State in the North, applies it to every city and township, and thus comprises three hundred and fifty independent divisions in a territory about as large as Yorkshire and Lancashire.

In the South the local option area is commonly the county. In that section of the country, though State prohibition has not gained a footing, the local option and licensing laws are in general of an extremely restrictive character.\* The conditions of the South are peculiar. The large negro element (in three States forming an absolute majority of the population) imports a distinct feature into the liquor question in that part of the country, where it is largely a question of police and good order, and where the prevalence of pistol-shooting rowdiness and of crimes of violence, especially among the negroes, has

\* In the southern States it has been very much the custom to deal with the matter by special legislation, which is in fact, though not in form, a species of local option, since such laws are passed by the State Legislature at the instance of the localities concerned (*see* pp. 317, 336, 356, 367). Some advantage is claimed for this mode of procedure as compared with that of a vote under the general local option law (*see* p. 319). But at present there is a disposition to check special legislation. Kentucky has by its new Constitution put a stop to it for the future. In some places the sale of liquor is forbidden by special clauses in deeds of conveyance, or in charters of incorporation—as, for example, in Colorado Springs (p. 304), and Evanston near Chicago (p. 295). Landowners who are large employers of labour sometimes enforce prohibition in the area under their immediate control (*e.g.*, Pullman, Illinois, and Marysville, N.B.).

contributed greatly to promote repressive liquor legislation.\* Some of the southern States are now under prohibition to the extent of much more than half their geographical area, though probably not that proportion of their population. In the larger towns it is not often adopted, but in the rural districts the closing of the "cross-road doggery" I found to be generally regarded as an object which merited, and very frequently was the means of securing, a preponderating "dry" vote. The negro has generally little self-control, and is therefore specially liable to the evils of drink. He will spend his money for it, then neglect his work, starve and ill-treat his family, begin to pilfer his employer, finally become a thief and a criminal. In his downward course he will take others with him, treating them, and giving them a taste for liquor. And the village saloon, the "cross-road doggery," is more than anything else the cause of the trouble. All the dangers of drink to the white man apply with added force to the negro. And while these positive reasons exist in the South for increasing the severity of the liquor laws, the negative fact that the tide of immigration from Europe sets comparatively little in that direction removes a source of powerful resistance to such legislation. The negro vote has a tendency to be "wet," though the anti-liquor agitation is carried on among the coloured people with not a little success; but where the whites approach to unanimity, as perhaps they sometimes do on this question in rural counties, they generally prevail. In the larger centres of population the white vote is generally divided, and here the negro vote carries no little weight. In the great local option campaign in Atlanta it was canvassed with much vigour on both sides.

To return to the variations of detail in the application of

\* The ratio of prisoners charged with homicide, per million of the population, was stated in 1890 as follows:—

North Atlantic States	...	...	...	...	62
North Central	„	...	...	...	80
South Atlantic	„	...	...	...	123
South Central	„	...	...	...	232

the direct veto. The power of initiation—the right of requiring that a vote be taken—rests usually with a certain number or proportion of the voters in the area of adoption, who signify their demand to the proper authorities. The frequency of the elections is usually limited by a provision that the decision adopted at one election shall not be questioned by a subsequent election until after the lapse of a certain time, usually two, three, or four years.\* In Massachusetts, however, and in one or two States in the South (Arkansas, for example), it is a strict requirement of the law that the question of “licence” or “no licence” shall be put and voted on regularly every year; and until an affirmative vote has been given no licences can be issued. In the rural parts of Illinois there is no requirement to take an annual vote, but licences are not allowed to be issued except in pursuance of a petition from a majority of the voters. In such cases local option takes a form the converse of the direct veto, and has an exceptionally restrictive aspect.

But the principle is not always applied through the medium of a direct popular vote. In some cases it has quite a real, though an indirect, enforcement through the agency of a licensing authority elected on this particular issue—a board of Excise Commissioners as they are usually called. This is the method adopted in New York State and in Nebraska, and it has its advocates who deem it to be a more efficient method of applying popular opinion to the question of the grant of licences than that by the direct vote.† It is certainly the fact that a good many instances could be given of places where an existing local option law of the usual type has been neglected, and licences have simply been refused by the local licensing authority.

In some States municipal and other local authorities are allowed a wide discretionary power of prohibiting or regulating the liquor traffic, unfettered by the general laws of the State. This method prevails throughout California, which gives

\* In Rhode Island a vote may be taken yearly.

† See p. 255 (Nebraska).



practically complete autonomy in the matter to counties, and even townships.\* In a good many States, city councils are allowed, within certain limits defined by the general law, to pass ordinances regulating the drink traffic, and, in particular, to raise the licence fees above the fixed minimum.† In the South, wide powers of this kind are sometimes conferred by special statutes, either incorporating municipalities with general powers of self-government, or relating exclusively to liquor.‡

Sometimes the local veto may be put in force in country districts by a direct vote, and, in incorporated municipalities, by the local authority.§

Again, to take another type of local option, the popular judgment is sometimes taken, not upon the general question, but upon the question of the issue of a licence to a particular person. In this case the applicant, before he can obtain his licence, has to produce a petition signed by a certain number of persons, sometimes even by a majority of all the voters in the election district or licensing area. This is the case (for example) in the rural portions of Missouri and Nebraska, in Florida and several of the southern States, and in Ontario. There are instances where, under special legislation, the support of two-thirds of the freeholders within the licensing area or within three miles of the premises is made requisite.|| This obligation to obtain a measure of popular support as a condition precedent to the obtaining of a licence has sometimes a modified recognition in cities, and the application is required to be supported by a petition from a certain number or, sometimes, from the majority, of the owners or occupiers of premises in the same block, or in that portion of it which fronts upon the same

\* See p. 308. One or two counties and some thirty or forty small towns and districts in California are under prohibition (pp. 313-314).

† In Wisconsin the fees can be raised by a direct popular vote. See p. 295.

‡ Georgia, pp. 317-318.

§ Ohio, pp. 279-280.

|| Georgia, p. 318.

street.\* The law of Nova Scotia carries this kind of local option to an unusual length, requiring every applicant for a retail licence to have the support of two-thirds (in Halifax, three-fifths) of the ratepayers in the polling district. In New Brunswick one-third is substituted for two-thirds; but a licence cannot be granted if the majority of the ratepayers in the city, town, or parish petition against it.†

Sometimes special restrictions are set on the opening of liquor shops near churches and schools. In Arkansas a majority of the voters, within three miles of a church or school, may by petition call on the county court to prohibit the sale of liquor within that area for two years.

The object of the foregoing paragraphs is not so much to present a complete summary of the various local option laws (in which respect they would be found deficient), as to indicate generally the variety of forms in which the popular will is required or empowered to intervene between the liquor-seller and his licence. The laws themselves, or a complete analysis of them, can readily be obtained in other works:‡ several of them also are summarised with some detail in subsequent chapters of this volume.

Upon the important question of the enforcement of local option in places which vote "dry," it is difficult to generalise. While it is true that this system has the merit of enabling prohibition to be adopted just where it is possible to enforce it, this does not prevent the drinking portion of the community in places which have given a "no licence" vote from taking

\* See Missouri, p. 268; Denver, p. 307; San Francisco, p. 310; Atlanta, p. 327; Baltimore, p. 337; Connecticut, p. 363.

† See pp. 401, 403; also Quebec law, p. 403; Ontario, pp. 404-405; and Manitoba, p. 407.

‡ See, for example, the "Cyclopædia of Temperance and Prohibition" (Funk and Wagnalls, New York, 1891) under the title "Legislation." A condensed analysis of the liquor statutes in the United States, by Mr. William C. Osborn, appeared in the *Harvard Law Review* for October, 1888, and was subsequently issued in pamphlet form.

every means, legal or illegal, open or secret, to get all the liquor they want; and, consequently, it by no means follows that the law is well enforced in every place which adopts it. Perhaps it would be difficult to point to any town of considerable size where "no licence" has as yet been steadily enforced for any length of time, and has ultimately gained a permanent footing, in the face of determined opposition from a strong minority. Cambridge might be quoted as an instance; but Cambridge, Somerville, and Chelsea are in fact suburbs of Boston, and it is difficult to gauge how matters would stand if it were not for that proximity, or if Boston (as seems not altogether unlikely) should some day vote "no licence."

So far as I am aware, the safeguard of requiring a two-third majority before the local veto can be put in force nowhere appears in American legislation, though instances of such a requirement, as a condition precedent to the issue of a licence, have been already referred to.

I often put the question of enforcement in a general form in reference to some individual State, and the usual answer was that the local option law was made effective in those places in which the local sentiment was sufficiently strong in its favour. Such places are generally of a rural character, and I think that, so far as the South is concerned, this law may be said to give satisfaction on the whole in rural areas. It is not pretended that it has much effect as regards those who will take the trouble to provide themselves with liquor at their homes; but, on the whole, outside the towns the demand is not very great, and the closing of the village saloons appears to be considered as generally beneficial. The case of Atlanta\* is a notable instance of an attempt to establish local prohibition in a large southern town; and while dissatisfaction is no doubt still felt and expressed in some quarters with the present state of affairs in Atlanta, there is, I believe, little prospect, so far at least as the

\* See pp. 321-326.

near future is concerned, of a departure from the existing licence law, for which a considerable measure of success is claimed.

The druggist difficulty has been seriously felt both in Massachusetts and the South. The evasion of the law, under colour of the sale for medicinal purposes, has induced not a few places to withdraw altogether the right of selling for these and all other purposes whatever—a course which may be practicable in isolated instances, but which, perhaps, could hardly be applied to a large area.

Boston, with its high returns of arrests for drunkenness, and its high percentage of non-residents among those arrested, furnishes a striking illustration of the effect of local option, under certain conditions, in concentrating the liquor trade in particular localities.

## CHAPTER V.

## HIGH-LICENCE AND NUMERICAL LIMITATION.

THE adoption of high-licence as a means for regulating the drink traffic is of comparatively recent date. Nebraska appears to have been its birthplace, or, at all events, the place of its first elevation to the rank of a general State law. Since 1881, and down to the present time, it has in an increasing degree found favour with American legislators; and it has now, in different forms and varying degrees, a place in the laws of many States. Indications of its probable further extension are not wanting.\* The agitation for its adoption in New York State has been in progress for some years, and has, indeed, on more than one occasion been defeated only by the application of the Governor's veto to a measure which had received the assent of both Houses of the Legislature. In San Francisco, which or all American cities is the most thickly sown with saloons, a movement for high-licence has shown itself, and seems to be gaining strength. In the accumulating mass of special legislation in the southern States the same tendency is repeatedly apparent, and is sometimes pushed to evidently prohibitory lengths. And States which have made trial of this system do not, as far as I am aware, generally show signs of desiring to abandon it.

It has roused the keen hostility of many prohibitionists—indeed, it may be said, of the prohibition party generally—though there are exceptions. It is objected to by them on general moral grounds, as being (in common with all licensing measures†) a compromise with sin, and on the ground that

\* In the present year the fee for retail licences in Washington, D.C., has been raised from \$100 to \$400.

† It is strange to note how frequently in prohibitionist literature licensing laws are denounced on the ground that they *legalise* the liquor traffic—as if

it has the special vice of corrupting the public mind with a large revenue. There is, perhaps, nothing else in the whole range of the liquor laws which many of them hold in such abhorrence; for they regard it as the most deadly of all obstacles to prohibition. "Until the high-licence craze has run itself out," said a late candidate of that party for the Presidency, "there is little to be hoped for by prohibitionists."

I may summarise in a few sentences the views of a prohibitionist with whom I had some conversation on the subject of high-licence, and whose utterances may, I think, be taken as fairly representative from this point of view. High-licence (he said) is a device of the longer-headed among the liquor men, invented after the strong tendency exhibited during the 'seventies towards prohibition. If this continued, they saw their business doomed. They therefore warned the Republican party that a change of front was necessary, and high-licence was the policy adopted. The prohibitionists were flattered with the assurance that it was a step in their direction. The rank and file of the liquor men, at first opposed to it, found in it their ally, and are become its staunch supporters. Its effect has been to strengthen the trade; because the elimination of the poorer and weaker traders has concentrated the business in the hands of those who are best qualified to work it for their own advantage, and confirms the political position of the saloon. High-licence (he urged) does not of itself, in the long run, even reduce the number of saloons; in places where the adoption of the system was at first succeeded by a large diminution of licences, the number has since shown a constant tendency to rise again. It is plausibly argued that a reduction

the traffic were the offspring of these laws, and would not have had any lawful existence without them. Whether or not prohibition is preferable on moral or practical grounds to licensing is a question on which it is no the purpose of this book to formulate any definite conclusion. But to say that a law—placing under exceptional restrictions a business which, in the absence of special legal restraint, would be free to all the world—"legalises" that business is clearly not quite correct.

in the number of licences will reduce the volume of drinking ; but this he declared to be untrue, or, at all events, untrue in towns and centres of population, which are the points at which the evil is really urgent. The brewers and distillers are themselves favourable to high-licence ; their trade is not restricted in quantity, while they have a better and more solvent, though a less numerous, circle of customers among the retail traders. But the most insidious and the most dangerous result of high-licence is the appeal which it makes to the sordid interests of the taxpayer, and the additional and most powerful barrier which consequently it thrusts in the path of the temperance reformer. A city having a high-licence law makes millions of dollars by the licence fees. In Boston those fees pay the whole cost of the police force, and in other cities, where the number of licences is less strictly limited than in Boston, the profits are yet greater. The loss of revenue is a potent argument against any plan involving material curtailment of the liquor trade which the deluded temperance reformers may propose, when the imposture of the high-licence system has made itself manifest to them.

This, perhaps, is a fair summary of the prohibitionists' argument against high-licence. Their objections to it amount to these : that it does not diminish drinking, and, in the long run, does not even materially curtail the number of drink-shops ; that the actual commercial strength of the trade is increased by it ; that it increases the political power of the saloon with all its corrupting influences ; and that it sets up a new obstacle to true reform by appealing to the sordid interests of the taxpayer.

The plea that it is supported by manufacturers and sellers of intoxicating liquor, and must therefore be injurious to temperance, is a favourite one with some prohibitionists, who assume that the promotion of drunkenness must be a design as well as a result of the trade. It is certainly true that brewers and distillers in Nebraska, and, probably, in other high-licence States, have spoken in favour of the system as an alternative

and a practical bar to prohibition, and have declared that their business had not in fact been injured by it ; but it would be going too far to assert that it was favoured in a general way by the majority of those interested in the trade. A perusal of the *Wine and Spirit Gazette* and the *Brewers' Journal* would lead to the opposite conclusion, though, undoubtedly, as an alternative to prohibition, high-licence would find favour in these quarters in cases where choice had to be made between the two. Some among the large dealers, also, would probably be glad to see their smaller rivals driven out by an increased fee.

And just as it is said that high licence must be bad because it has received support from the liquor trade, so it is argued that the opposition of the trade to prohibitory laws is the best proof of their excellence. It will, however, perhaps be generally admitted that, whether prohibition be effective or ineffective as a measure designed for the public welfare, it can hardly be expected to receive support from the persons carrying on the trade which is outlawed by it, even if they find means to carry it on in the face or behind the back of the law.\*

The advantages claimed for high-licence traverse most of the objections of the prohibitionists. Reserving, for the moment, the question of its effect on the general amount of drinking and drunkenness, I may summarise in a few lines the good results alleged to proceed from it. They are, briefly :—First and foremost, the extinction of a great number of the worst and lowest dramshops, sinks of vice, and hotbeds of crime. Secondly, better police control, owing to the diminution of numbers and the concentration (to some extent) of the trade in the business centre of the town, where it is most profitable. Thirdly, better observance of the law by licence-holders, from fear of the pecuniary loss involved in the forfeiture of their licences. Fourthly, suppression of unlicensed liquor-sellers by

\* Indications, indeed, are not altogether wanting of a disposition among liquor-sellers to acquiesce in a prohibitory law which they are able to violate with impunity. See Iowa, p. 167.



the licensed, as an act of self-protection. Fifthly, contraction of the saloon influence in local and State politics.

As already noted, it is sometimes denied that, in the long run, the high-licence fee has much effect on the number of licences issued. The case of Plainfield (New Jersey) has been repeatedly quoted in support of this somewhat paradoxical position. The following figures were supplied to me in reference to that town, and are, I presume, correct. During the period 1883-90, the population increased (as I am informed) from 12,500 to 16,000 :—

Year.	Licence Fee.	Number of Saloons.
	£	
1883	300	6
1884	400	8
1885	400	10
1886	500	12
1887	500	14
1888	700	14
1889	700	17
1890	700	18

These figures appear, if anything, to prove too much ; as the number of saloons not merely did not decrease under successive additions to the fee, but were largely augmented during the eight years ; and I am not aware that an increased number of dramshops has ever been seriously alleged to be the result of a heavier tax upon them. I am not acquainted with the special circumstances of this place ; but it is impossible to avoid the suspicion that some cause other than high-licence has led to the results shown in the table, and that the growth of saloons, though concurrent with, occurred in spite of, the raising of the fee. The figures themselves show that, while saloons were exceedingly scarce in this town in 1883 under low-licence, their ratio to the population was still decidedly low in 1890, on a comparison with other places.

That an increased tax should lead to a diminished number of persons paying the tax seems to be a natural process of cause and effect, operating in a more marked degree in proportion as the amount of the tax is further raised. And it is easy to give facts in support of the *a priori* supposition. Here are figures for Chicago :—

Year.	Licence Fee.	Proportion of Retail Licences to Population.
1880	\$ 52	1 to 155
1890	500	1 to 200

Chicago, however, though it does show an appreciable falling off in the number of dramshops, is a weak instance. It is often cited as an example of the failure of high-licence, but it is hardly a fair example; an immense and rich population, largely of foreign origin and, perhaps, somewhat reckless character; a licensing authority which exercises no discretionary power worth mentioning, and a licence fee which, after all, ought hardly to be called "high" in such a place, just one-half of what is paid in Omaha or St. Paul, much smaller cities. Let us see what has been the effect in them of high-licence.

#### OMAHA.

Year.	Licence Fee.	Proportion of Licences to population.
1881	\$ 100	1 to 267
1882	1,000	1 to 560
1891	1,000	1 to 600

#### ST. PAUL.

1886	100	1 to 152
1888	1,000	1 to 318
1892	1,000	1 to 368

Instances might easily be multiplied of individual places and of whole States where similar results are shown as directly due to this system. In other cases the elimination of dram-shops has been carried to a still further extent by the action of high-licence combined with other more direct modes of limitation, which will presently be noticed. High-licence is a somewhat indefinite term ; there are many gradations between the highest and the lowest ; and a rate high enough to suppress a large proportion of the applications for licences in one place will have comparatively little effect in another. But that a material increase in the rate of taxation has in general a marked effect on the number of taxpayers, is a proposition for which corroborative evidence is not wanting.\*

That such an effect is in itself desirable is, I think, the opinion of a large majority of Americans who take an interest in the liquor question ; that it is the strongest argument for high-licence is probably the opinion of most of those who favour that system, for it is urged that the smaller and poorer saloons which disappear under it are precisely those which do the most mischief. To the objection that the poor and not the rich are interfered with, it is answered that it is the poor themselves who are most benefited by the disappearance of the low dram-shops.

The directly restrictive effects of high-licence are less marked in crowded centres of population, than in more sparsely populated areas where the trade is smaller and, therefore, less able to bear a heavy tax ; and it often operates with prohibitive force in rural districts.† For the same reason it tends to drive the trade out of the outlying and residential quarters of cities and to concentrate it in the business quarter, where probably it may have little or no effect in diminishing the number of saloons. From a police point of

\* See also Minnesota, p. 250 ; Illinois, p. 295.

† See Nebraska, pp. 254-5.

view this concentration is generally considered to be greatly beneficial, inasmuch as no small part of the energies of the police has to be devoted to the suppression of disorders for which the saloon is directly or indirectly the nucleus, and which cannot be adequately dealt with over a widely extended area.

I have found it sometimes disputed that liquor-sellers are more inclined to observe the law under high- than under low-licence, or that those who have paid heavily for their privileges are on that account in the habit of giving much practical assistance in enforcing the law against their natural enemies, the illicit traders. It is urged that a saloon-keeper who has paid 1,000 dollars for his licence is driven to push his business by all possible means, legal or illegal, in order to recoup himself for his outlay. There is a certain force in this contention, and some opponents of high-licence attach much weight to it. I do not pretend to gauge the extent to which it is supported by actual facts. It would, however, seem reasonable to suppose that, generally speaking, the tendency indicated would be to a large extent, if not wholly, counterbalanced by the effect of reduced numbers on competition. A saloon-keeper in a town containing a large number of illegal dram-shops once told me that he would gladly pay a fee of 1,000 or 1,500 dollars a year as the price of a well-enforced licensing law.

It must be remembered that an American liquor-dealer convicted of a breach of the law is generally liable to the forfeiture, not merely of his licence-money, but also of a large sum under the bond which on receipt of his licence he is required to give by way of security for his good behaviour. Where the provisions of the law regarding forfeiture are strictly enforced, licence-holders are under strong obligations to comply with the conditions of their licences.

Whether or not they are generally disposed to assist in

enforcing the law against others, is largely a question of police experience. The superintendent of police in one large town told me that he was in the habit of receiving vague complaints, but little definite information, from licensed dealers respecting illegal liquor selling.\* Others, however, have assured me distinctly that in their towns the men who had paid heavy licence fees were by no means tolerant of unlicensed competitors, and in self-defence were not slow in putting the police on their track.

The question of the political influence of the saloon has, fortunately for us, commanded hitherto less practical interest in England than in America, where under existing conditions it is a matter of pressing importance. The argument on this ground for high-licence is a strong one. The American saloon-keeper, even the small one, commonly controls the votes of at least a few hangers-on. Any considerable reduction in the number of saloons, therefore, it is urged, detracts largely from the sum total of the liquor vote. Municipal corruption is well known to be a weed of strong and frequent growth in American cities, the eradication of which has in some places been greatly promoted (as I was more than once informed by leading citizens) by the contraction of the saloons under high-licence.

The very large increase of revenue which follows the adoption of high-licence is a bone of bitter contention between the friends and foes of the system. To the prohibitionist, who by no means regards its restrictive features as supplying an adequate legislative solution of the drink question, but would be disposed only to favour or tolerate them as indicating in some degree an advance towards the entire suppression of the trade, the pecuniary allurements of high-licence cannot fail to appear as a serious stumbling-block. The appeal to the baser instincts

\* But the fee in that town is only \$400, hardly high-licence.

is sufficiently obvious; there is no need to dwell on it; and from the point of view of the thorough prohibitionist (unless he is inspired with a more than usually sanguine faith in public virtue) the objection is perhaps almost fatal, so far as the larger cities are concerned. But those who, whether or not they approve of absolute prohibition in theory, do not believe in its practicability (at all events at the present time), and accept high-licence as the best available measure of restriction, may fairly argue (as they do) that, inasmuch as the liquor traffic is the cause of a certain degree of inconvenience, poverty, and disorder, it is fair that the trade should be specially, and even heavily, taxed to defray the expenses which it entails on the public. From this point of view the argument in justification of the augmented revenue is at least a reasonable one. It should be recollected also that low-licence, as well as high-licence, produces revenue; the difference is only in the amount; and, without any licence fee at all, a house let as a saloon will generally command a higher rent, and therefore will contribute more to the taxes, than if it were used for any other purpose. So that the "revenue motive" is not altogether confined to places where high-licence operates.

But where the authority exercising the licensing and taxing power represents the very area which has the benefit of the tax, the appeal of high-licence to the taxpayer's pocket is direct and, doubtless, potent. It is evident, however, that the motive of self-interest may be made to apply with diminished force by diverting a portion of the revenue to objects wholly or partly external to the licensing area. In the American States the whole of the licence fees, or at all events the lion's share of them, is as a general rule appropriated by each individual locality which controls its own licensing. But there are exceptions. Some of the larger cities of Pennsylvania, under the Brooks Law as originally enacted, took only two-fifths of the revenue from their licences, the remainder going partly to the

State and partly to the county ; but this provision was amended, and now the city takes four-fifths, the county one-fifth, and the State nothing. Kansas City, though not, strictly speaking, an independent licensing area (since it has a board of Licence Commissioners appointed by the Governor), may be supposed to exercise a certain influence, through public opinion, in the licensing of its own dramshops, and receives only 250 dollars out of the 800 dollars paid by each licence-holder.\* In Ohio there is no licensing power at all, but the tax paid by liquor-sellers is split up into a number of shares, which are allotted to the State and to certain specified county and local funds ; and there seems to be nothing to preclude a similar division in cases where a discretionary licensing power is locally exercised.

The difficulty in an American State of removing from the taxpayers, who control the local licensing body, the temptations placed in their way by high-licence is probably greater than it would be in England, where a portion of the tax might be appropriated by the central government for imperial purposes, in which the individual taxpayer would feel his pocket to be less intimately concerned.

In rural districts and small country towns these considerations have less importance, because the expenses of local government are lighter than in cities ; and the experience of the southern States shows that high-licence is not antagonistic (at all events outside the more important centres of population) to a free use of the powers of local prohibition. It sometimes happens, indeed, that the licence fee itself is deliberately made prohibitory. There are counties in the South in which the fee has been fixed at 5,000 and even 10,000 dollars.†

\* A division which the city contemplates with some dissatisfaction. The State takes \$50, and the county \$500.

† See Georgia, p. 318. In Shiloh, S.C., under its Act of incorporation, no retail licence might be issued at less than \$20,000.

To the question—the first, perhaps, which the inquirer concerning the results of high-licence would be likely to ask—Does it diminish drinking and drunkenness?—I regret that I can return no compendious and conclusive answer. That it does have this effect is certainly the opinion of many Americans who have lived under it and watched its operation; but it cannot be denied that this is still matter of controversy, and it is impossible to demonstrate it, by means of half a dozen rows of figures, as an absolute fact. I will ask a moment's attention to the following table, which illustrates the difficulty of proving statistically the relative merits of different methods of dealing with the liquor traffic. To begin with, it is impossible to obtain a perfectly uniform basis for a comparison between different places. We may be told that one city has a licence for every 500 inhabitants, while in another the ratio is 1 to 750. But it may be that wholesale licences are included in the one case and not in the other, or that grocers' "off" licences are issued in one city and forbidden by law in the other. Returns of drunkenness are made up in almost countless different ways, varying not only with differences in the State laws and municipal ordinances, but also according to the practice of the police and of the legal procedure in each particular place. A tipsy man is arrested in one place who in another would be left alone or merely sent home. A man commits an assault or other offence while under the influence of drink; in one place the intoxication will appear in the charge, in another it will not. The comparative significance of the figures in the fourth column of this table must be largely discounted by a due consideration for these circumstances, as well as for the special points mentioned in the notes to the table.



Cities. Population in 1890.	Licence Fee.	Ratio of Licences to Population, 1 to —	Ratio of Arrests to Pop.		Ratio of Police to Pop. 1 to —
			Drunk- enness, etc.* 1 to —	All Of- fences. 1 to —	
Cambridge (70,000) .....	[Prohibition]	[Prohibition]	78	30	824
Somerville (40,100) .....	"	"	33	—	—
Portland (36,400) .....	"	"	40	24	1,000
Council Bluffs (21,500) ...	"	"	31	14	1,000
Boston (448,500) .....	Dollars. 1,000 to 1,500 500 (beer) 300 (grocers)	500 (all kinds, ex- cept druggists & clubs)	13†	9	467
Philadelphia (1,047,000) ..	1,000	754 (retail)	40	20	544
Pittsburg (238,600) .....	1,000	about 800 (retail)	19	12	785
St. Paul (113,000) .....	1,000	340 (all kinds)	64	25	748
Minneapolis (165,000) ...	1,000	601 (all kinds)	77	28	732
Omaha (140,000) .....	1,000	560 (all kinds)	84	19	—
Atlanta (65,500) .....	1,000 (retail) 250 (retail beer) 25 (wholesale)	886 (all kinds)	—	5	493
Kansas City (132,700) ...	800	420 (retail)	122	22	—
Detroit (206,000) .....	800 (wholesale & ret.) 500 (retail only) 300 (beer)	160 (retail)	73	24	560
St. Louis (451,800) .....	550	about 235 (retail)	53	20	549
Chicago ‡ (1,100,000) .....	500	about 200 (retail)	30	18	579
Providence (132,000) .....	400	337 (retail only)	25	19	612
Indianapolis (105,400) ...	382.50	247 (retail)	81§	26§	941
Baltimore (434,500) .....	250	207 (retail)	29	14	553
Cincinnati (297,000) .....	250	about 136 (retail)	66	18	632
New York (1,505,300) ...	50 to 250 30 (beer)	169 (all kinds)	43	17	413
Charleston (55,000) .....	100 to 150	200 (retail)	65	18	544
Brooklyn (806,300) .....	50 to 100	200 (all kinds)	36	32	611
San Francisco (299,000) ..	84 [164] ¶	94 (retail)	20	10	656

\* Returns are differently made up in different places. "Drunkenness" in this column includes offences in which drunkenness is stated as an element (*e.g.*, "common drunkards" and "drunk and disorderly"). In some cities (*e.g.*, Minneapolis, Cincinnati, Pittsburg, and St. Louis) there is a return of "disorderly" but not of "drunk and disorderly." In such cases I have taken three-fourths of the "disorderly" offences to be due to drink, and have included that proportion in the computation of this column. The returns are not all for the same year. I have in all cases taken the last year for which I had the figures, varying from 1890 to 1892, and have taken the population as given in the census of 1890, since which time there must have been in some cases a considerable increase.

† The conditions of Boston are peculiar, *see* pp. 60, 221-2.

‡ The figures for Chicago are taken on the year 1890, when there were about 5,500 dramshops. There are now over 7,000. No returns are published in Chicago for drunkenness; the figures in the fourth column give the ratio of "disorderly" to population. The large majority of them were doubtless more or less under the influence of liquor, though probably not all. But nearly 2,000 intoxicated persons were assisted home by the police in Chicago in 1890.

§ The return of arrests in Indianapolis, on which the above figures are based, is for ten months only (March—December, 1891). I have assumed a proportionate number for the other two months.

|| New York shows 15,339 arrests for "disorderly conduct," but I have not included them, as it has also a return of arrests for "intoxication and disorderly conduct," as well as for "intoxication" simply.

¶ Those whose business amounts to \$15,000 per quarter are required to pay the higher fee. As a matter of fact, nearly all the dramshops pay on the lower scale.

The twenty-three cities comprised in the table include a majority of the largest cities in the country and a few smaller ones. If 500 dollars be taken as the low-water mark of high-licence, they may be thrown into three groups, viz. :—

- 4 prohibition cities.  
11 high-licence „  
8 low-licence „

Turning to the fourth column of the table, we find that 11 of these places have a lower ratio of arrests for drunkenness to population than 1 to 40, while 11 have a ratio of 1 to 40 or a higher ratio, the distribution among the three groups being as follows :—

Low Ratio of Arrests.	High Ratio of Arrests.
<p><i>Prohibition :</i> Cambridge ... 1</p> <p><i>High-Licence :</i> St. Paul Minneapolis Omaha Kansas City Detroit St. Louis</p> <p><i>Low-Licence :</i> Indianapolis Cincinnati New York Charleston</p> <p style="text-align: center;">— 11</p>	<p><i>Prohibition :</i> Somerville Portland Council Bluffs</p> <p><i>High-Licence :</i> Boston Philadelphia Pittsburg Chicago</p> <p><i>Low-Licence :</i> Providence Baltimore Brooklyn San Francisco</p> <p style="text-align: center;">— 11</p>

I leave the reader to draw from this analysis and from the table any conclusions which they may appear to him to warrant. I do not suggest that they supply any argument in favour of either high-licence or prohibition. So far as I am aware, the particular cities included in the table are as fairly representative as any others would be. At all events, they were not selected for the purpose of proving or disproving anything. The

conditions of Cambridge and Somerville appear to be very similar. Both are suburbs of Boston, and both have held consistently to prohibition for a considerable series of years. Yet their returns of arrests for drunkenness differ in the proportion of more than two to one. Of the state of affairs in Portland and Council Bluffs a particular account is given in other pages.\* In Portland the number of persons arrested for drunkenness during the year ending March, 1892 (the year which, as regards this place, is taken for the purpose of the above table), was smaller than it had been for many years.†

The account of St. Paul, Minneapolis, and Omaha in a later chapter will perhaps be held to justify the claim on behalf of those cities, that they rightly appear in the table with a low return for drunkenness.‡ Kansas City, I believe, stands fairly well in this respect; but it can hardly be pretended that the figures in the fourth column indicate its true degree of sobriety in comparison with other places, and the explanation of its unique position must be sought in some administrative peculiarity. Boston, on the other hand, which makes the worst show of all, is placed at a disadvantage by the juxtaposition of a number of large suburbs which allow no saloons; and the Boston police, moreover, are more than usually alert in arresting drunken men.§ Atlanta makes no returns for drunkenness, but shows an extraordinarily large proportion of arrests for all offences. Yet evidence is not wanting that the liquor laws are exceptionally well enforced in Atlanta.||

Where figures fail, recourse must be had to opinions based on experience and distorted as little as may be by interest or prejudice. And in public opinion it is undeniable that high-licence receives much solid support. This was a point

\* Maine, pp. 103-110; Iowa, pp. 157-159.

† See p. 109.

‡ Minnesota, p. 249; Nebraska, p. 257.

§ Massachusetts, pp. 195, 221-2.

|| Georgia, pp. 328-9.

on which I addressed many inquiries in all parts of the country ; and I do not hesitate to say that among all the persons of different classes—clergymen, judges, lawyers, officials, business men, police, and others—with whom I talked on the subject, putting aside those who either were interested in the trade, or else were extreme and uncompromising advocates of prohibition, the great majority favoured high-licence as a measure of regulation ; by which I mean, not that they necessarily preferred it to the total exclusion of the traffic where it could be excluded, but that, believing general prohibition to be impracticable, they found in high-licence the most satisfactory method of dealing with the business wherever it existed.\* That there were exceptions I do not deny ; but I have no doubt—so far as my inquiries went—how the balance of opinion lay. Local option and high-licence—that is to say, prohibition where it can be enforced, and high-licence where it cannot—these are the forms of liquor legislation which I found, more than any other, advocated by Americans all over the country. Many also, who either have little belief in, or are actually opposed to, general prohibition and the local veto, are strong supporters of high-licence. The general grounds on which it finds favour have already been

\* Here, by way of an example, is my note taken after a conversation with one who held the strongest anti-liquor views, but was not, politically, a prohibitionist :—"Mr O—— is a teetotaller, and would like prohibition if it was effective, but he is convinced that it is worse than useless. He thinks high-licence the best check, and I gather that he would make it very high indeed ; he mentioned \$5,000 for this city. He advocates high-licence for the sake of reducing the number to the lowest point possible. The real evil, he says, is the temptation to the young who haven't yet developed a thirst for strong drink. They go and play billiards together, and gradually get to playing for drinks. Therefore make the number of liquor shops as small as you can. As for preventing people who want drink from getting it, it is utterly impossible, at all events till the mass of habits and of sentiment has undergone a great change, which can only be the result of time. If the rising generation could be kept clear of getting the taste, a general prohibitory law *might* be passed a generation hence, and *might* be effective."

indicated ; its advocates are not unanimous on the question of its effect on the whole volume of drinking and on drunkenness. A system which gives a better police control and tends to check law-breaking (if it be admitted that high-licence has these merits) would naturally be expected to diminish, in some degree, the prevalence of inebriety ; and it is certainly the opinion of a large number of observers, resident in high-licence cities, that it has actually had this effect. For an examination of its results and the estimation in which it is held in particular places, the reader is referred to other chapters, and especially to that on the States of Minnesota and Nebraska.\*

Other methods, additional to the indirect operation of high-licence, are sometimes adopted for reducing the number of licences. Massachusetts has a fixed maximum ratio of licences to population—1 to 500 in Boston, and 1 to 1,000 in all other parts of the State, with a certain elasticity allowed to places which, as summer resorts, have a large influx of strangers during a short period of the year.

This direct statutory limitation of number applies, so far as I am aware, in no other State, though I repeatedly found it approved of in other States ; but the province of Ontario has a somewhat similar law,† and a municipal ordinance has still further restricted the number of licences in Toronto.

Another mode of limitation is through the discretionary power of the licensing authority. This method has been more sweepingly applied in Pennsylvania than elsewhere. The Brooks Law, passed in 1887, created a strong licensing body of judges, with the widest power to refuse applications—a power which was intended to be, and has been, very freely exercised.

In no other State has the number of licences been kept down, by the exercise of the discretionary power of refusal, to the same extent as in Pennsylvania. But, as has been

\* See also figures relating to Philadelphia, p. 230.

† See p. 405 : also New Brunswick, p. 403.

mentioned in the previous chapter, in connection with local option, effect is often given by the licensing authority to the popular will, demanding that licences should not be given to particular persons or in particular places, and this sometimes largely reduces the number issued.

In Minneapolis, a similar result has been obtained by a law forbidding the issue of any licences whatever outside the central business quarter of the town. The operation of that law and the excellent results claimed for it are mentioned on pp. 242-5.

As previously noticed, high-licence has by itself a certain tendency to concentrate liquor shops where the population is thickest; in Minneapolis this tendency is carried to its extremity by direct legislation. Atlanta has a similar system; but there beer licences are allowed in a wider circle.\*

English experience is sometimes said not to support the theory that fewer licences cause less drinking. Much would seem to depend on the question how, and particularly *how much*, they are reduced. If at the intersection of two streets there is a saloon at each of the four corners, little effect will be produced by shutting up one, or perhaps two, or even three of them; because every man can as easily get his drink in one as another. But if the average distance which a man must traverse before he comes to a dramshop is increased, then, it is argued, the chances are that, on the whole, he will find his way to it rather less frequently in the course of the year.† In America, reductions in the number of licences have sometimes been carried out in a very sweeping way. Boston made a reduction in one year from 1,780 to 780; Philadelphia, in one year, from 5,770 to 1,740 (70 per cent.); Minneapolis, in three or four years, from 535 to 230, notwithstanding a rapid growth of population—and all without a dollar of compensation.

In some States—with a view to encouraging the consumption

\* See pp. 326, 329.

† See p. 244.

of light drinks in preference to hard liquor—beer receives differential treatment in the matter of the licence fee. Experience has not always proved the efficacy of this method. The disposition to pay the lower fee, and then, under cover of it, to deal in all kinds of intoxicants, is strong and not easily kept in check. In Chicago a reduced fee on malt liquor was tried and abandoned—its abandonment being due, as I was informed, to the representations of saloon-keepers who held the full licence, and complained that they were subjected to an unfair competition by beer-sellers dealing in whisky. In Detroit (a city which has not been famous for its close observance of the liquor laws) this kind of evasion notoriously went on to a very great extent; and a single uniform tax on the retail trade has in the present year been substituted. The secretary of the Law and Order League in Boston told me that considerable difficulty was found in preventing a general business from being done on a beer licence; it had in fact been found impossible, in that city, altogether to put a stop to it. Some years ago, when a proposal was made in the Legislature to encourage beer-drinking by a further reduction of the licence fee on beer, he had raised this objection, the validity of which was questioned. He sent out some of his agents, who succeeded in procuring hard liquor in twenty-two beer-shops in the city. Search warrants were afterwards obtained, and whisky was found in sixteen out of the twenty-two.

Americans not infrequently have expressed to me their approval in principle of the plan of discouraging the use of strong spirits by lightening the tax on the retailers of malt liquor; but have felt themselves pressed by the great difficulty of controlling this kind of fraud. At the same time, the differential tax has not been abandoned in Massachusetts. A good deal of attention is paid in that State to the enforcement of laws; and I am not aware that much active dissatisfaction has been excited regarding the operation of this tax. Though it may not be possible entirely to suppress evasions, it is,

perhaps, a question of vigilance or laxity of administration, whether they are allowed to run to scandalous lengths. In Atlanta, which also has a reduced fee for beer-sellers, I found little or no indication of much abuse.

I am not, however, able to offer any evidence that this expedient has been the means of largely promoting a demand for beer on the part of the consumer, and thereby weaning him of his taste for ardent spirits. The proportion of "Class 2" licence-holders in Boston is not great enough to have much effect on the facility of obtaining the stronger liquor. In New York city (where the whole scale of fees is very much lower) there is a rule that no new saloon licence is given except on the withdrawal of an old one; and, as a matter of fact, when a beer licence lapses it is almost always replaced by a general one.



## CHAPTER VI.

## SOME DETAILS.

I PROPOSE in this chapter to examine in some detail certain features of American liquor legislation. First, as to the licensing authorities and their powers.

Licences are granted either by the municipal authority, or other body in which the general powers of local government are vested; or by a body specially constituted for this particular purpose, or by the police, or by a judicial body. Owing to causes connected with the prevalence of municipal corruption, which has been recognised by Americans as a blot on the efficiency of their political system, a marked tendency has been shown in American cities to move in a direction the very reverse of the general approximation elsewhere observable towards complete local self-government. This tendency takes form in the withdrawal from the municipality of its control over the police, and the licensing of dramshops. That the progress of reform should take this direction is striking and sufficient evidence of the mischievous effects which ensue when the liquor power is able to gain a controlling influence over municipal affairs. And it is evident that where the municipality has control of the liquor trade, either directly or through a board appointed by it (as, for example, in New York city, where the Excise Board is nominated by the mayor, subject to confirmation by the Board of Aldermen), those interested in that trade have the strongest motive to obtain control, if they can, of the municipality. If American experience proves anything, it proves the danger of giving licensing powers to the elective body which is vested with the general management of local affairs.

What are the alternatives? The popular control may be maintained through a special body, specially elected for the

purpose of dealing with applications for licences. This is the course taken in New York State (except in the cities), where it operates as a local option measure, licences being altogether refused in a good many townships, in which the Excise Commissioners are elected on that issue. In the cities of this State, however, the commissioners are nominated by the mayor, an arrangement open to much of the objection felt to the exercise of the licensing power directly by the municipality.

But, in some cases, the principle of popular control has been given up altogether so far as licensing is concerned, that duty being committed to officers appointed by the Governor of the State, to whom also is still more frequently entrusted the control of the police. This course has been adopted in Boston, where the police board is the licensing authority, and in Baltimore, where the Governor appoints three Licence Commissioners.\* In St. Louis, public opinion, long dissatisfied with the municipal control, has just succeeded in obtaining a similar change. The system, though obnoxious to the principles of local self-government, is generally accepted as a relief after the grave practical inconveniences which it was designed to remove.

Finally, there remains the plan of committing the duty to judicial hands, as is done under the Brooks Law in Pennsylvania, where the licensing authorities are the judges of the Courts of Quarter Sessions.

The importance of the question, to what authority should be entrusted the performance of this duty, depends much on the extent of the discretionary powers to be attached to it. In Ohio anyone who pays the tax may keep a dramshop, and there is, properly speaking, no licensing power. In other places

\* The "metropolitan" system of police management has been adopted in a good many cities besides Boston; among them, Cincinnati and St. Louis. In prohibition States there is commonly a power to appoint a special police for enforcing prohibition; and in Connecticut and several of the Canadian Provinces special officers are entrusted with the execution of the liquor laws. See pp. 365, 384, 400, 403, 407.

(Chicago for example) the power to refuse applications exists only where the applicant's character is unsatisfactory, and practically is not exercised except in rare cases, the municipality granting a licence to almost anyone who is ready to pay the fee.

Where the power of veto is to be exercised by the licensing authority, there are evident advantages in having a body specially constituted by popular election, so that the principle of local option may be maintained. But, where local option either does not exist, or operates by means of the direct popular veto, and the licensing authority is intended to exercise discretion in the grant and refusal of individual applications for licences, there is force in the argument that those who are clothed with such powers ought to be free from external influences, and above all from the danger of pressure through the votes or manoeuvres of persons interested. And on this ground the adoption of a nominated or judicial licensing board receives support in many quarters in preference to one dependent on a popular vote. The chief merit claimed for the present law of Pennsylvania is the strength and *independence* of the licensing courts. Those courts have acted with much energy in dealing with applications and reducing the whole number of licences, and appear on the whole to have fulfilled the expectations of those who promoted the passing of the Brooks Law, though it is said that there has recently appeared a disposition to somewhat greater laxity, and some of the Judges, I believe, would gladly be relieved of this duty. On the whole, perhaps, it may be said that no American licensing bodies have done their work more efficiently or given more general satisfaction than the Quarter Sessions Judges of Pennsylvania.

Both in Philadelphia, however, and other places I found a disposition in some quarters to consider that the selection, from among a long list of applicants, of those to whom a limited number of licences should be granted was a system of necessity invidious and unfair, and that the better plan would be to settle—whether by decision of the licensing court or by

popular vote—the whole number of licences to be issued, and to let them be offered at auction, or assigned by lot, or in any other way rather than by selection. Such a plan, however, has not, so far as I am aware, ever been adopted or even much pressed, and I need not further allude to it in connection with American laws.\* On the assumption that the licensing authority is to have discretionary power to grant or refuse applications, those who favour the view that such a power is better vested in an independent than in a local elective body may fairly claim support from American precedents.† And this view is not inconsistent with the acceptance of the principle of local option through the direct popular veto, or, indeed, with the further extension of that principle to the determination of the licence fee, and a limitation on the total number of licences.

The power of refusing applications for licences varies in different States; sometimes (as already mentioned) they can be refused only for cause, such as bad character or previous conviction, but in the majority of cases the power is a wide one; and, where popular sentiment requires or allows it, it is often exercised with great freedom. In Massachusetts a case is mentioned of a town where all applications for licences were refused, though the local option election had given a majority for “licence.” And, as noticed in Chapter IV., much attention is commonly paid (whether by requirement of law or as a matter of practice) to the wishes of the public in dealing with applications.

In some cases a licence is not to be given unless the licensing authority is satisfied that it is required for the accommodation of the public; and in Pennsylvania this question is to be determined with due regard to the number and character of the petitioners for and against the application.‡ In Michigan,

\* The “single tax” law of Ohio finds favour in some quarters, on the ground that the absence of any discretionary power to grant or refuse licences rids that State of a dangerous inducement to political corruption.

† See also Ontario, p. 384.

‡ Baltimore, p. 337; Pennsylvania, p. 226; Kentucky, p. 347.

there is, in form, no licence ; but the liquor-seller must first pay the required tax and enter into the required bond, approved by the local authority, which approval is to be withheld if he is known to be one whose character and habits would render him an unfit person to conduct the business of liquor selling.

The frequent requirement of support from the public or the occupiers of neighbouring premises to applications for licences has been noticed in Chapter IV., in connection with the subject of local option.\* Frequently, also, it is forbidden to issue a licence for premises within a certain distance of a church or school.† As regards the licences themselves and the limitations attached to them, there is also much variety. Some laws make no distinction between wholesale and retail, "on" and "off;" but fix a single fee, and a single course of procedure in all cases. Massachusetts, on the other hand, has six different classes of licence ; and other States classify to some extent, and fix their fees at varying rates, according to the class of licence.

The feeling of antagonism to the mere dramshop has led to the requirement in some laws that all licensees shall provide a certain amount of sleeping accommodation,‡ or at least food as well as drink.§ In one case it has even been sought to abolish the bar altogether, and allow only sales by the bottle for removal before consumption, and in hotels to guests.|| Grocers' licences are sometimes regarded with special disfavour, as tending to secret drinking, and to the promotion of the habit among women, who procure liquor in the grocery

\* In Missouri, if a petition for a licence is supported by two-thirds of the taxpayers, it can be refused only on the ground of character. In San Francisco the application must be granted if supported by twelve owners of real estate in the same block.

† Massachusetts, p. 196 ; Denver, p. 307 ; Georgia, p. 335 ; S. Carolina, p. 356 ; New York, p. 360 ; Nova Scotia, p. 401.

‡ Ontario, p. 405.

§ Massachusetts, p. 195.

|| Nova Scotia, p. 401. See also p. 329, for proposal in Georgia to allow only wholesale licences.

when they would be ashamed to enter a saloon. The feeling in some quarters is extremely strong against the "corner grocery." Evidence of its mischievous effects was given before the Royal Commission sitting in Montreal.\* The obligation on grocers to sell by the bottle only, for consumption off the premises, has been found to be greatly violated in some places, and much dram-drinking is said to go on in these shops. In Pennsylvania grocers' licences are prohibited. In Ontario the grant of off-licences can be limited by municipal bye-law to those whose business is solely the selling of liquor.

The licence money, or the greater part of it, is most commonly appropriated by the municipal or other local authority of the area in which the licence is granted; but a portion of it is in many cases reserved to the State and sometimes also to the county. In Ohio the greater part of the tax is divided among certain county and local funds in specified proportions. In Wisconsin the licence fees are appropriated for the support of the poor.†

American liquor laws invariably require the licensee, in addition to the payment of the fee, to give a heavy bond with sureties by way of security for his compliance with the conditions of his licence. The amount is commonly \$1,000, sometimes less, sometimes much more. The law of Michigan allows the local authority to fix it anywhere between \$3,000 and \$6,000. In Pennsylvania and Minnesota it is \$2,000; in Illinois, \$3,000; in Nebraska \$5,000. The sureties are generally required to be freeholders of the same city or county, and, as a check on the multiplication of "tied houses," it is sometimes provided that no one may be surety on more than one bond.‡ In Pennsylvania no one engaged in the manufacture of liquor is eligible.

\* See also, as to groceries in San Francisco, pp. 311, 312.

† In some States the licensee has to pay an additional *ad valorem* tax on the turn-over of his business.

‡ Nebraska, p. 253; Connecticut, p. 364. A similar provision was proposed in Pennsylvania, but was struck out of the Bill.

Sureties occasionally find their liability to be a serious matter, when their principal has been cast in heavy damages under the "civil damage clause," presently to be noticed.\* Under at least one law, on proof of any breach of the conditions of the bond, the whole amount of it is declared to be liquidated damages, and is recoverable by action on behalf of the local authority.† In Texas the sum of \$500 is recoverable on the bond on breach of any condition.

Licenses who fail to obey the law are commonly liable to forfeiture of their licences and to future disqualification, in addition to other penalties. The licensing authority, as well as the legal tribunals, has often a power to cancel a licence on being satisfied that the liability to forfeiture has been incurred,‡ and in some cases is required to do so.§ In Wisconsin, on sworn complaint that a licence-holder has violated the law, the licensing authority has no option, but is required to summon the person charged, hear the evidence, and on proof of the offence revoke the licence, whereupon the offender is disqualified for a year from obtaining another.

In some cases the court convicting of a particular offence is required to declare the licence forfeited.|| In others, when the court has convicted, the question of forfeiture is left at the

\* The full liability of the sureties to the extent of the bond seems to be established by a number of legal decisions. They have been held liable for exemplary as well as compensatory damages.

† Atlanta, p. 327. See also Rhode Island, p. 184.

‡ See Illinois, p. 287; Minnesota, p. 240. In Rhode Island the licensing authority may cancel a licence on being satisfied that the licensee has allowed his premises to become disorderly, so as to annoy and disturb his neighbours.

§ Baltimore, p. 337; Missouri, p. 269.

|| Pennsylvania, p. 227. Missouri, p. 269. The holder of a beer licence in Illinois, on conviction of selling other liquor, is thereupon to forfeit his licence; and the court must declare the forfeiture. In Rhode Island a licensee convicted of illegal selling forfeits his licence and is disqualified for five years; and the local authority is required to bring suit for the amount of his bond. See also Atlanta, pp. 327-8, and p. 420 (s. 909 of Atlanta ordinance).

discretion either of the court\* or of the licensing authority.† In Minnesota, the licence becomes *ipso facto* void on conviction for selling to a minor, habitual drunkard, or intemperate person after notice. In Ontario a licence is in general revocable after a third conviction.

A person who has been convicted within a year, or within three or five years, of any breach of the liquor laws is in some States ineligible for a new licence.‡ In Atlanta such a conviction involves perpetual disqualification; every applicant for a licence being required to make an affidavit that he has not previously been convicted. And in Missouri a licence may not be granted to any one whose licence has previously been revoked, or who has been convicted of any violation of the liquor law, or has had any such person in his employment.

Sunday closing is the rule nearly everywhere in America, but it is a rule much violated in the cities, in many of which nothing more is attempted than the closing of the front door, while there are some in which not even this form is observed. Complaints that it has been used by the police as a means of levying blackmail have not been infrequent in some of the larger cities; and in others, where the police would seem to have done their best to enforce it, the difficulty of obtaining convictions is said to have rendered their exertions useless.§ Boston and Philadelphia, however, are instances among the larger cities where the law is administered with vigour and not without success. In Atlanta, also, I believe it to be well enforced. The law of Massachusetts allows an exception in favour of guests in hotels; but in Pennsylvania the rule is absolute, and is not openly disobeyed in Philadelphia. The law of Ontario forbids the sale of liquor between 7 o'clock on Saturday evening and 6 o'clock on Monday morning, during which period bar-rooms must be closed.

\* Massachusetts, pp. 197, 210.

† Nebraska, p. 253; Massachusetts, pp. 197, 210.

‡ Minnesota, p. 239; Rhode Island, p. 184.

§ See, as to Cincinnati, p. 282.



The closing of bar-rooms on election days is general.

Liquor is never allowed to be sold to minors,\* or to habitual drunkards. There is, perhaps, no provision in the licence laws to which Americans generally attach more importance than this, or which there is a greater disposition to enforce with severity. This is the point to which the Law and Order Leagues common in American cities devote the best part of their energies, and their attention to which earns for them the largest measure of public favour. The Chicago League attempts nothing else but a vigilant campaign against all who supply drink to young people and to drunkards. In Atlanta every saloon is obliged to have posted over the door the words "No minors allowed in here." To employ a minor in a dram-shop, or even to permit him to frequent or enter it without the written permission of his parent or guardian, is equally prohibited.

The penalties for this class of offence are severe. In Missouri the fine ranges from \$50 to \$200, and, in addition, the parent may recover damages to the extent of \$50 for each offence. This provision is no dead letter ; and it happened while I was in Kansas City that a woman there obtained judgment for \$2,000 against a saloon keeper for supplying liquor to her son, a lad. The offence was alleged, and proved, to have been committed on forty different occasions. The secretary of the Law and Order League of a large city in another State related to me a case where a woman got a verdict for \$6,500 in a similar case, proving sixty-five offences, for each of which she was entitled to \$100, the amount fixed by law. The conviction in that case was quashed, on the ground that the statute of limitations had run ; but the law was afterwards amended so as to extend the time during which such actions might be brought. In Michigan both actual and exemplary damages are recoverable by a parent or master for this offence.

\* In California the prohibition extends only up to the age of 18 years.

In a few instances the sale to women is also prohibited either altogether, or for consumption on the premises. In Denver a city ordinance provides that liquor is not to be supplied to females, nor may females be permitted to be in saloons for the purpose of drinking, or be employed in the liquor business.\*

A provision, found in most American laws, for the greater protection of the habitually intemperate, and their families, is that which enables the relations of a drunkard to give notice to liquor-sellers that they are not to supply him with liquor, and attaches a heavy penalty to anyone who violates the terms of the notice within a year. The following, which is taken from the Massachusetts law, may be given as an example of such clauses, though they often vary in detail :—

“The husband, wife, parent, child, guardian, or employer of a person who has, or may hereafter have, the habit of drinking spirituous or intoxicating liquor to excess, may give notice in writing, signed by him or her, to any person, requesting him not to sell or deliver such liquor to the person having such habit. If the person so notified at any time within twelve months thereafter sells or delivers any such liquor to the person having such habit, or permits such person to loiter on his premises, the person giving the notice may, in an action of tort, recover of the person notified such sum, not less than one hundred nor more than five hundred dollars, as may be assessed as damages : *provided*, that an employer giving such notice shall not recover unless he is injured in his person or property. A married woman may bring such action in her own name, and all damages recovered by her shall inure to her separate use. In case of the death of either party, the action and right of action shall survive to or against his executor or administrator.”†

In Wisconsin the notice may be given by the municipal or Poor Law authorities as a protection to the public against

\* *See also* Rhode Island, p. 183. New York State passed a law in 1892 prohibiting the employment of women as barmaids.

† Under a subsequent enactment the notice may also be given in a city by the mayor, and elsewhere by one of the selectmen. In Rhode Island the limitation on the amount of the damages is omitted. *See also* Pennsylvania, p. 228 ; Missouri, p. 269 ; Kentucky, p. 347 ; Ontario, p. 407.

liability for the support of the drunkard or his family.\* Clauses of this kind have been found to have practical effect; use has been made of them, and cases in the law courts have tested and established their validity. Their operation is to some extent impeded by an unwillingness to give the notice, and by the difficulty or distastefulness of serving it in a number of saloons. This latter obstacle to the effectiveness of the clause is, however, easily surmounted in places having a Law and Order League, by an application to that body, which is generally ready to undertake the work.

The foregoing provision may be considered as part of what is known as the Civil Damage Law; but the enactment to which that name is usually given is one which makes the liquor-seller liable in damages for any injury which a person under the influence of liquor supplied by him may do to himself or others. The following is a fair example of such a law :—

“Every husband, wife, child, parent, guardian, employer, or other person, who is injured in person, property, or means of support by an intoxicated person, or in consequence of the intoxication, habitual or otherwise, of any person, shall have a right of action in his or her own name, severally or jointly, against any person or persons who, by selling or giving intoxicating liquor, have caused in whole or in part such intoxication.”†

The following is another form of clause, less comprehensive than the preceding one :—

“If any person in a state of intoxication commits any injury to the person or property of another, the person who furnished him with any part of the liquor which occasioned his intoxication, if the same was furnished in violation of this chapter, shall be liable to the same action by the party injured as the person intoxicated would be liable to; and the party injured, or his or her legal representative, may bring either a joint action against the person

\* See p. 296.

† See laws of Illinois and of Massachusetts, Maine, and other States. In Illinois, if the damages claimed do not exceed \$200, proceedings for their recovery may be taken before a magistrate.

intoxicated and the person who furnished the liquor, or a separate action against either.”\*

The law of Ontario, in addition to a clause similar to the last, contains also one in the following terms, dealing with cases where an intoxicated person commits suicide or sustains fatal injury :—

“Where in any inn, tavern, or other house or place of public entertainment wherein refreshments are sold, or in any place wherein intoxicating liquors of any kind are sold, whether legally or illegally, any person has drunk to excess of intoxicating liquor of any kind, therein furnished to him, and while in a state of intoxication from such drinking has come to his death by suicide, or drowning, or perishing from cold or other accident caused by such intoxication, the keeper of such inn, tavern, or other house or place of public entertainment, or wherein refreshments are sold, or of such place wherein intoxicating liquor is sold, and also any other person or persons who for him or in his employ delivered to such person the liquor whereby such intoxication was caused, shall be jointly and severally liable to an action as for personal wrong (if brought within three months thereafter, but not otherwise), by the legal representatives of the deceased person ; and such legal representatives may bring either a joint and several action against them, or a separate action against either or any of them, and by such action or actions, may recover such sum not less than \$100 nor more than \$1,000, in the aggregate, of any such actions, as may therein be assessed by the court or jury as damages.”†

The Civil Damage Law of Nebraska is very wide, rendering the liquor-seller responsible for all damages sustained by individuals or the public in consequence of the traffic, including the support of paupers, widows, and orphans. Thus, if a person becomes a pauper through intemperance, the Poor Law authorities may sue on the bond of any licensee who was in the habit of supplying him with liquor. And in such suits it is only necessary to prove that the defendant supplied liquor

\* Laws of Rhode Island.

† Revised Statutes of Ontario, 1887, c. 194, s. 122.

to the person on the day, or about the time, when the acts were done or the injuries received, which gave rise to the suit.

In this latter respect Civil Damage Laws vary, some requiring proof that the intoxication was caused by drink supplied by the defendant, while others merely require it to be shown that the individual was intoxicated, and that the defendant supplied *some* of the liquor.

In Wisconsin the existing Civil Damage Law operates only in the case of an habitual drunkard in respect of whom notice has been given not to sell, a limitation which is said to render it almost inoperative. In Ohio there is a similar limitation; but anyone serving liquor so as to cause intoxication is liable to compensate one who takes charge of the intoxicated person, a provision which occurs also in the laws of some other States.\*

Whatever may be thought of the Civil Damage Law, there is no doubt that it has operated in not a few cases with practical and exemplary force. Of its operation in Nebraska something is said in a later chapter.† In other States also I found evidence that it was by no means a dead letter.‡ The Law and Order Leagues are ready to give advice and assistance to persons desiring to take proceedings; and lawyers are not wanting who, from less disinterested motives, are quite willing to promote litigation of this kind, in view of the heavy damages

\* Kansas, p. 129; Iowa, p. 153.

† See pp. 258-9.

‡ For instance, in New York there was a case where a man, after drinking heavily in a saloon, left with a bottle of whisky in his pocket and a pipe in his mouth. He fell over the kerb-stone, the bottle was broken and the spirit took fire from the pipe. The man lost his life, and a jury awarded his widow heavy damages against the saloon-keeper. Here are some other cases:—"In the suit for \$10,000 damages brought by Mrs. E. H. against S. D. V., of —, the jury last night awarded \$1,000. Mrs. H.'s husband was killed some months ago by G. P., who, it was claimed, was drunk on whisky obtained at V.'s drug store in —." "The — County (Pa.) Court has awarded \$1,625 damages against J. S., a saloon-keeper of the borough of —, on the suit of Mrs. S. W., whose husband, it is claimed, got drunk in S.'s saloon, and while drunk was run over by the cars and killed."

to which it may lead. The persons entitled to take these proceedings are, in a large proportion of cases, women whose husbands have gone to ruin in the saloons. The secretary of the League in a large city told me that the reluctance of many women to follow up their cases was the chief obstacle to the enforcement of this law. A woman would come to the League's office, would be prevailed upon to institute proceedings, and afterwards, bullied or persuaded by her husband or others, would abandon them. But, in his opinion, the risk to saloon-keepers was real enough to operate with considerable effect in deterring them from anything likely to bring them within the grasp of the Civil Damage Law.

The penalty for intoxication is commonly a fine with or without liability to imprisonment, but the latter punishment is more often reserved (except in default of payment of the fine) for a second or third conviction; and, as it is comparatively rare for previous convictions to be charged and proved, the offender has nearly always the option of a fine. The question of the punishment for drunkenness has lately received much attention in Massachusetts, where the fine has been abolished. Further reference to this subject will be found in Chapter XI.\*

The tendency of legislation, however, is to treat the seller of liquor with more severity than the consumer, and accordingly it is sometimes provided that the punishment for drunkenness may be wholly or partly remitted on the offender giving sworn information, when, where, and from whom he received the liquor which made him drunk.† The law of Michigan goes still further, and provides that a person, alleged on sworn information to have been intoxicated, is to be summoned and called on to give evidence against the liquor-seller.‡ In several States habitual drunkards may be committed to places established

\* See p. 211.

† See Iowa, p. 152; Nebraska, p. 254; Atlanta, p. 328.

‡ See pp. 263-4.

for the cure of intemperance. In Massachusetts a special State hospital for the purpose has recently been opened.\*

By the law of Illinois, habitual drunkenness for two years is a cause for divorce, and proceedings can also be taken, as in cases of insanity, for the appointment of a conservator of the person and property of a drunkard.

For illegal selling the punishment is generally a heavy fine, and imprisonment, under some laws for as much as a year. And the court has sometimes no option but to imprison.

In some States the most effective weapon against illicit liquor shops is found to be the provision declaring every such place to be a nuisance, and authorising proceedings to be taken for an injunction to abate it. The procedure in these cases is more speedy, and avoids the risks of failure with the jury; and the American courts seem to have supported a wide application of this equitable jurisdiction. The following section is from the law of Massachusetts :—

“The Supreme Judicial Court and Superior Court shall have jurisdiction in equity upon information filed by the district attorney for the district, or upon the petition of not less than ten legal voters of any town or city setting forth the fact that any building, place, or tenement therein, is resorted to for prostitution, lewdness, or illegal gaming, or is used for the illegal keeping or sale of intoxicating liquors, to restrain, enjoin, or abate the same as a common nuisance, and an injunction for such purpose may be issued by any justice of said courts.” †

In Nebraska all fines under the Liquor Law are paid to the School Boards.

Vendors of liquor are by many laws required to keep their doors and windows unobstructed by screens or other obstacle to a clear view of the premises from the street. Tables and

\* Large numbers of persons voluntarily submit themselves for treatment at “Keeley Institutes,” and places where other special “cures” are administered. The Keeley cure, in particular, has spread widely over America.

† See also Pennsylvania, p. 228; Kansas, p. 129; Iowa, p. 152.

chairs are also in some cases forbidden. Charlottetown, in Prince Edward Island, has a specially stringent law of this kind.\*

The sale of liquor in theatres and places of amusement is sometimes forbidden. And some laws prohibit musical and other performances in saloons. In Missouri, a dramshop keeper may not allow the use of any musical instrument, nor any contests or exhibition on his premises, nor any billiard-table, gaming-table, bowling alley, cards, or dice.

In Nebraska "treating" is forbidden, but not prevented.

The sale of liquor by druggists for medicinal, mechanical, scientific, and sacramental purposes is a matter which has received much legislative attention in America, especially where prohibition prevails. The elaborate provisions regulating or attempting to regulate this business in Iowa and Kansas are noticed in the chapters dealing with those States. Commonly, but not invariably, licensing laws provide for the conduct of this business by druggists on payment of a reduced fee. Special exemptions are sometimes allowed for medical prescriptions. Great abuses have gone on in the "drug store saloon." But this is one of the difficulties peculiarly attendant on prohibition.

Other provisions, common in licensing laws, such as clauses for search and seizure, penalties on officers who neglect their duty, penalties for adulteration, etc., call for no special remark.

A subject still remaining to be noticed is that of "Scientific Temperance Instruction," which, in one form or another, has in the course of the last ten years been made compulsory in the public schools of a large number of States. Vermont was the first State to adopt such a law, and by 1890 more than thirty States had given statutory recognition to this branch of teaching, the introduction of which as a compulsory subject of

\* Page 380. *See also* Atlanta ordinance, ss. 898—9, p. 419. *See also* laws of Michigan, Nebraska, etc.



instruction in the schools has been pressed by its advocates on the State Legislatures with very great vigour and much success.\*

The terms of these laws vary in different States. Commonly, the study of "physiology and hygiene, with special reference to the effects of alcoholic drinks, stimulants, and narcotics upon the human system" is required of all pupils in all public schools. In many, if not the majority, of the States it must be pursued with text-books in the hands of pupils able to read; in some, the text-books used in primary and intermediate schools must give one-fourth of their space to temperance matter, and those used in high schools not less than twenty pages. Generally, also, no teacher who has not passed a satisfactory examination in this subject can be granted a certificate or be authorised to teach.

The enactment of the law was followed by a vigorous war on the subject of the text-books. The advocates of the views just mentioned insisted that prominence should be given to an uncompromising exposition of the necessity of complete abstinence, in order to "so popularise the science of temperance that the smallest pupils may understand from their school manuals why they should neither drink alcoholic liquors of any kind, nor use tobacco." The adoption by some States of the requirement that the books must devote one-fourth of their space to the effects of alcohol and the other narcotics marked a victory for this side in the dispute.

The promoters of the movement frankly stated their object in a petition addressed to publishers of "temperance text-books," in the course of which the following passage occurs:—"This is not a physiological but a temperance movement. In all grades below the high school this instruction should contain only physiology enough to make the hygiene of temperance

\* A history of the movement, from the point of view of those who have pushed it on, has been published in the form of a pamphlet by Mrs. Mary H. Hunt, the superintendent of that department of the Women's Christian Temperance Union which undertakes this particular work.

and other laws of health intelligible. Temperance should be the chief, and not the subordinate, topic, and should occupy at least one-fourth of the space in text-books for these grades." The gist of the objection to the older books was that they were directed against "the abuse and not the use of alcohol." "The object of all this legislation" (as stated in the preface to one of the recognised text-books) "is not that the future citizen may know the technical names of bones, nerves, and muscles, but that he may have a *timely* and *forewarning* knowledge of the effects of alcohol and other popular poisons upon the human body, and therefore upon life and character."

A great variety of elementary text-books have been issued within the last few years, the chief object of which is to teach that all drinks containing alcohol in large or small quantities are poisons, and have a peculiar property of leading the consumer on from a moderate to an excessive indulgence. It is also declared to be "the nature of alcohol to make a person not care if he does wrong." The functions and organs of the human body are successively described, and the ruinous effects of alcohol on each organ are graphically set forth. The positive evil, as well as the probable risk, of even the smallest use of alcoholic liquor is particularly emphasised\*; and the superiority of the total abstainer in all the physical and mental operations of life is repeatedly inculcated.

The thick speech, bloated appearance, and rolling gait, and

\* "Whenever a man takes a glass of beer or other liquor that has alcohol in it, the blood carries the alcohol to his brain. If this alcohol were like water it would not harm the brain, for the brain needs water. But alcohol is a sharp, biting poison. It will shrink the brain and do it much other harm . . . A man poisons his brain a little, if he takes only the alcohol there is in a little beer or cider." "Cider, beer, wine, or any liquor that contains alcohol, deadens the nerves that give us the sense of taste. One who drinks any of these, or uses tobacco, soon becomes unable to taste delicate flavours." "While this appetite is not formed as readily in some persons as in others, no one can be sure how soon alcohol will become his master if he takes it in any form."

all the other signs of bodily and mental weakness, and moral depravity, which mark the drunkard, are set forth as the ordinary alternatives to total abstinence. The use of alcoholic liquor in cooking is strongly condemned.

The contention of the W.C.T.U.—that one-fourth of the space in the text-books should be required by law to be devoted to temperance matter—appears to have prevailed, in the year 1890, in about six States. Elsewhere a vigorous contest was carried on by the extreme party for the adoption of books embodying their views, but they were not always successful. In one State, a member of the board by which the selected text-book had to be sanctioned told me that the agitation on the question had been keen, but the board had decided in favour of a physiology primer of a less controversial character, in which the effects of alcohol were described, but not with the particular force of colour desired by the extremists. He was strongly of opinion that, if they had gained their point, the law would not long have continued in force.

“The Standard for the Enforcement of a Temperance Education Law,” issued by the W.C.T.U. to superintendents of public instruction in the several States, lays down that “the pursuit of the study of physiological temperance by all pupils in all schools, as the law demands, requires at least three lessons per week for fourteen weeks of each school year below the second year of the high school”—twenty minutes being allowed to each lesson.

## CHAPTER VII.

## MAINE.

## (Prohibition.)

THE Maine Liquor Law was enacted in 1851. The proposal had been unsuccessfully brought forward in the previous year; but in 1851 the Bill was rapidly passed through all its stages without amendment, and almost without discussion. In 1856 the law was repealed, but, two years later, was re-enacted, and continues in force at the present time, amended by various enactments increasing, for the most part, the stringency of its provisions. In 1884, a proposal to make it a part of the Constitution of the State was submitted to popular vote, and was carried by a large majority.

The following is a brief summary of the law as it now exists :—

The following things are prohibited :—

(a) Selling intoxicating liquor (except as especially provided)—punishment, \$50 *and* 30 days' imprisonment; and, on subsequent convictions, \$200 *and* 6 months' imprisonment.

(b) Being a common seller—\$100 *and* 30 days'; (\$200 *and* 4 months' on subsequent convictions).

(c) Keeping a drinking-house and tippling-shop—\$100 *and* 60 days'.

(d) Depositing or having in possession liquor with intent to sell in violation of law, or with intent that any other person shall sell, or to aid any person in such sale—\$100 *and* 60 days'.

(e) Travelling from place to place, carrying or offering for sale, or obtaining or offering to obtain, orders for the sale or delivery of liquor—\$20 to \$500, and, in default of payment, two to six months' imprisonment.

(f) Knowingly bringing into the State, or transporting from place to place in the State, liquor with intent as above—\$500 *and* one year's imprisonment.\*

\* See note †, next page.

(g) Manufacturing for sale any intoxicating liquor except cider—\$1,000 *and* 2 months'.

All places used for the sale or keeping of intoxicating liquors, or where intoxicating liquors are sold for tippling purposes, and all places of resort where intoxicating liquors are kept, sold, given away, drunk, or dispensed in any manner not provided by law, are declared to be common nuisances, and the penalty is a fine not exceeding \$1,000 *or* a year's imprisonment.

It will be seen that the penalties in the above cases vary considerably in severity, but that the law generally requires both fine and also imprisonment.\* The object of the prohibitionists has been to increase the penalties all round. As regards illegal transportation (see *f* above), they have, by a recent amendment of the law, succeeded in their object; but it is desired to extend this heavy punishment to other offences.† In some cases prosecution must be by indictment, others may be dealt with by courts of summary jurisdiction; but the defendant can always appeal to a jury.

Wherever the law prescribes both fine and imprisonment, the latter is doubled if the former is not paid. The punishment for a single act of transportation, therefore, may be two years' imprisonment, irrespective of the amount of liquor transported.‡

\* By a law of 1893, however, the courts are allowed more discretion in this respect.

† Since the above was written, the law fixing the penalty for illegal transportation has been altered by the Legislature in the Session of 1893; a penalty not less than \$50 nor more than \$100, and 60 days' imprisonment (in case of a railway, steamboat, or express company, a fine not exceeding \$200) being substituted for the very heavy punishment mentioned in the text.

‡ I was told that certain cases of this offence were pending before the Supreme Court of the State on appeal, and that it was thought possible the court might decline to enforce the punishment, as being unreasonably severe. It is difficult, however, to see how the express language of the statute can legally be evaded.—But, as stated in the preceding note, this punishment has in the present year been mitigated by Act of the Legislature.

Payment by any person of the United States tax as a liquor-seller is *prima facie* evidence that he is a common seller.

Provision is made for enabling the officers of the law, under authority of a magistrate's warrant granted on sworn information, to search for and seize liquor and arrest the person keeping it.

Any person found intoxicated in any street, highway, or public place (or in his own house or elsewhere, if he is quarrelsome) is liable to a fine not exceeding \$10 or imprisonment not exceeding 30 days.

Anyone injured in person, property, means of support, or otherwise by an intoxicated person, has a right of action against anyone who caused or contributed to his intoxication.

Until recently, sales of liquor in the original packages in which it was imported were allowed; but a recent statute has brought such sales under the general prohibitory law.

In order that liquor may be provided for medicinal, mechanical, and manufacturing purposes, the local authority of each city and town may annually appoint an agent to sell it for those purposes only. These agents obtain their supply from a commissioner appointed by the Governor of the State in Council.

There are two, and may be three, sets of officers charged with the duty of enforcing these laws; viz.:—*Firstly*: The marshal and the ordinary police of each city and town. *Secondly*: The county sheriff and his officers, whose duty is not only to enforce the judgments and decisions of the courts and carry out legal process, but also to see that the laws are obeyed and to cause proceedings to be taken against offenders. This duty is theirs as regards the enforcement of the laws in general, but is particularly enjoined upon them with regard to those relating to the sale of liquor and the suppression of disorderly houses. *Thirdly*: On petition of thirty taxpayers in any county, representing that the liquor laws are not faithfully enforced by the county or local officers, the Governor of the State is required, if the representations appear to be well-founded, to appoint special officers to enforce these laws.

In practice, however, the mode in which the law is enforced

depends in general chiefly on the action of the county sheriff and his deputies.

The chief city of Maine is Portland, in Cumberland County, a considerable seaport, having a population of 36,400. The prohibitory law, to which it has been subject for forty years, has been enforced during that period with varying severity;\* but during the last two years, since the beginning of 1891, it has been enforced with exceptional vigour;† indeed, it is said that probably at no other time and in no other part of the State have such determined efforts been made to put an end to the liquor traffic. Frequent domiciliary visits are paid by the sheriff and deputies to suspected places, and large quantities of liquor have been seized and destroyed. It would seem that there is no city in the United States better situated than Portland to throw light on the question of how much success may be looked for from prohibition in an important centre of population, which has had a long experience of such a law, and has formed such habits of mind and action in regard to abstention from liquor as result from that experience.‡

As regards the general habits of the people, it is impossible to form anything approaching a precise estimate of the proportion which teetotallers bear to the whole population; nor is any information obtainable showing the amount of liquor

\* In the early days of the law, the contest between the "ramrods" (prohibitionists) and the "rummies" was carried on with a good deal of vigour. During 1856-7, the State relapsed into a licence law; but then reverted to prohibition. During the secession troubles the question fell into abeyance.

† In Portland the city government is Democratic, and is said not to favour the new *régime*. The sheriff appoints his own deputies to carry out his orders; he has no control of the municipal police.

‡ It is sometimes said—and the suggestion is, perhaps, not groundless—that prohibition has had a specially favourable field in Maine, which lies somewhat out of the general track of affairs, and has been subject to fewer disturbing influences and circumstances than many other States. On the other hand, Portland itself is a foreign-trade seaport, though not one of first-rate importance.

brought into the State, either legally, for home consumption, or illegally for sale. There is, however, no doubt that a large proportion of the people are total abstainers; and, while it is probable that this fact is due, in a great measure, to religious and moral influences independent of the prohibitory law, it is generally admitted by its opponents that prohibition—by tending to drive the traffic into bye-ways and disreputable “dives,” by removing the visible temptations offered by open bars and saloons, by making it relatively, if not absolutely, difficult to obtain drink, and by throwing a general atmosphere of subterfuge and disrepute about the trade—has been a material agent in suppressing a demand which is not only regarded by many as morally wrong and physically ruinous, but is rendered by the operation of the law disreputable. These tendencies, receiving support from the general voice and sentiment of the women, have so influenced manners that, whatever share in the result ought to be assigned to the effect of prohibition, it is a fact that the demand for liquor or the desire for it, in large quantities or small, proceeds only from a limited section of the population. Even taking the wealthier class alone—whom the prohibitory clauses of the law would not much affect, since the introduction of liquor into the State for private use is not interfered with—it is probably safe to estimate that in the residences of at least one-half of them no alcoholic liquors are in use. The law of Maine also requires temperance teaching to be administered daily to all the pupils in all public schools in the State.\* Allowances have to be made for these circumstances in forecasting the effects of applying a prohibitory law

\* The text-book used in the schools of Portland is Dr. Thayer Smith's “Primer of Physiology and Hygiene,” which describes, chapter by chapter, the structure and functions of the different parts of the human anatomy, and the evil effects produced on them by alcohol and tobacco. A supplementary chapter on stimulants and narcotics is added, in which the mischief caused by smoking and drinking (moderate as well as excessive) are set forth. About five minutes a day are given to this study.



to other places, where the general habits of the people are different.

The good order of the town appears to be preserved easily enough by a force of no more than from thirty-five to forty constables—about one to every thousand of the population. Drunkenness has, however, by no means been stamped out; and those who are best able to judge do not think that, with the utmost vigilance, it is possible entirely to suppress the illicit supply of liquor. The "Rum Room" in the basement of the City Hall—the receptacle for the liquor seized by the authorities—bears evidence confirmatory of this opinion; the liquor here received is periodically destroyed,\* but a new supply soon comes in—though, after two years during which the law has been strictly enforced, the accumulations are less voluminous than they were at the commencement of that period.

Except at the City Agency (to be mentioned later) and in some of the hotels, where wine and beer can still be obtained by guests in their rooms and even in the public dining-room, a stranger in Portland would probably have difficulty in purchasing liquor.

In the lower parts of the city there are haunts where drink is secretly consumed on the premises by those who frequent such places, and from which proceed most of the drunkenness seen on the streets. These "dives" are the points to which the sheriff's attention is chiefly directed, and he and his deputies are sometimes baffled by the ingenuity with which the object of their search is concealed† Much of the spirits found at these

\* A law of 1893 provides that seized liquor containing more than 20 per cent. of alcohol is to be redistilled and utilised at the liquor agencies, or disposed of for the benefit of the county in which it was seized.

† Contrivances for disposing of liquor to evade search (technically called "dumps") are various. Sometimes a corner of the floor, with the carpet attached, works on a hinge, the liquor being concealed below it; or it may be kept behind the framework of a door. Sometimes there is a hole behind the bar, down which the liquor can be thrown into a receptacle below, the bottles being broken in their fall and the liquor mingled with water and

places is of a vile character, and produces the worst forms of intoxication.\*

"Pocket-peddling" is another mode in which the traffic is conducted. The pocket-peddler loiters about the streets and wharves in the lower quarters of the city, and serves his customers from the bottle. This business, it is said, accounts for a good deal of drunkenness, and it has been found impossible entirely to suppress it. A recent estimate, by one who is said to be well acquainted with this class of people, rates the number of pocket-peddlers in Portland as high as 300. This seems incredible; but another informant, who thinks this estimate too high, tells me that there is certainly a very large number of young men engaged in this business.

The apothecary's store is another place where liquor-selling is, probably, to no inconsiderable extent still carried on. Apothecaries usually sell syrups, soda water, etc., and it has been a common practice for them to supply whisky. The severity, however, with which the law is now enforced in Portland has done much to check this practice, and in 1892 it was difficult, if not impossible, for a stranger to purchase whisky from an apothecary; but I was repeatedly assured by residents that a considerable sale was still carried on in this way to regular customers. It is certain that the apothecaries, almost without exception, pay the United States special tax on alcoholic liquor, and although it may be argued that this payment need not necessarily involve a violation of the law, it is by the State law made *prima facie* evidence of illegal sale.

other ingredients which render it unrecognisable. Liquor is often conducted from a distance in carefully concealed pipes; in one case it was led into the ordinary water-pipe, and by an arrangement of valves either whisky or water could be drawn from the same apparently innocent tap. I was shown a barrel which had been buried several feet in the ground and connected with the surface by a pipe, the end of which was just covered with earth and exposed when liquor was required to be drawn.

\* Such spirits are sold at \$1.25 per gallon. The United States Excise duty is 90 per cent. per gallon.

It shows that the means for violating the law are ready at hand ; and it is hard to see for what legitimate purpose the payment can be made, since the mere keeping of alcohol and use of it in compounding medicine would not involve a liability to the tax, and the sale of alcohol, as such, for medicinal purposes is by law restricted to the City Liquor Agency. The number of persons in Maine who paid the retail liquor-dealers' tax for the year ending June 30, 1892, was 808, besides 214 who paid the tax on retail dealers in *malt* liquor ; and I was informed, on official authority, that there was only one druggist in Portland who had not paid the tax.

Another quarter from which a very considerable quantity of liquor must be obtained is this City Agency, which is kept as already described, "for the sale of intoxicating liquors for medicinal, mechanical, and manufacturing purposes, and no other." The official agent is required to record the kind and quantity of the liquor sold, and the date of sale, price, and name of purchaser. Any person who knowingly misrepresents the purpose for which he purchases liquor is liable to a fine of \$20 ; but the law does not require any further assurance that the purchase is *bonâ fide* made for one of the above-stated purposes. As a matter of fact, in Portland, the question "Medicine?" and the answer "Yes!" seem to be held sufficient, and a small throng is commonly seen in the agency of persons waiting their turn for a flask of whisky as "medicine." The profits of the City Liquor Agency of Portland for the past year have, as I am informed, amounted to about \$20,000.

Of the actual condition of Portland, as compared with other cities in regard to drunkenness, it is difficult to judge ; and it is a question on which, probably, there would be much difference of opinion among residents. Undoubtedly, the sight of a drunken man is no great rarity, and, occasionally, when the pocket-peddler has been plying a brisk trade, a group of men may be seen together under the influence of drink. The smallness of the police force may be taken as evidence of the orderly

character of the population. A stranger perambulating the town at night would probably be struck by the imperfect lighting of the streets, the rare appearance of a policeman, and the general quiet which prevails. Groups of men and boys would be seen lounging at the corners of the streets in the lower quarters ; and it is said that such loungers are often posted to give warning in the "dives" of the approach of danger.\*

As regards the general character of the liquor sold, the evidence of the sheriff's officers, and of the "Rum Room" itself, shows that the vigilance of the authorities has almost put a stop to the sale of beer in Portland ; nearly all the stuff seized is

\* The following cuttings from Portland newspapers were taken in a few days in October, 1892, and are probably a fair average sample :—

"The *Telegram* says that about midnight, Saturday, seven cases of beer were carried into the vacant lot on Cross Street, below the American Express Company's Stable, and the beer peddled out to the great crowd that gathered there. Was there no policeman on that beat?"—*October 15.*

"There were twenty-one arrests last week, of which ten were for drunkenness."—*October 17.*

"The patrol wagon went on an expedition after drunks on Kennebec Street yesterday afternoon. Three men were gathered together from one place or another, and all taken to the station at once."—*October 18.*

"MUNICIPAL COURT.—Before Judge Gould. *Wednesday.*—Thomas Gibbons, James McGlynn, Patrick Flaherty, and Eugene F. Cunningham. Intoxication. Each fined \$3 and costs.

\* . \* \* \* \*

"James A. Facey. Common nuisance. Bound over to the grand jury in the sum of \$500.

"Patrick J. Cady, Edward J. Cady, and James E. Cady. Search and seizure. Edward discharged. James E. and Patrick each fined \$100 and one-half costs and 60 days in the county jail. Both appealed.

"Edward J. Cady and Patrick J. Cady. Search and seizure. Discharged."—*October 19.*

"Yesterday morning Mary Sullivan was brought before the Municipal Court by the sheriffs. She was charged with being a common drunkard, and was sentenced to 30 days in the House of Correction. This was the only business."—*October 20.*

"SEIZURES THIS MORNING.—The sheriffs made a seizure of hard stuff this forenoon at the place on York Street kept by John and Ellen Howley. They also got a quantity at Mary Welch's, 51, Centre Street."—*October 20.*

"hard liquor" (spirits), and some of it is of the vilest quality.\* A comparison of police-court statistics is not altogether to be relied on, since a high return of arrests may be the result of a strict enforcement of the law as well as of an excess of law-breaking. No return is published of the cases of drunkenness dealt with summarily in the municipal court of Portland. The following figures are, however, received from the best authority :—

## CITY OF PORTLAND, MAINE.—ARRESTS.

Year ending March 31.	Drunkenness.	Drunkenness and Disturbance.	Total.	Common Drunkards.	All Crimes.
1872	1,558	203	1,761	9	2,538
1873	1,431	191	1,622	5	2,441
1874	727	195	922	3	1,374
1875	2,011	389	2,400	0	3,087
1876	1,931	387	2,328	38	3,143
1877	1,585	279	1,864	22	2,716
1878	1,359	249	1,608	30	2,421
1879	1,170	215	1,385	56	2,440
1880	1,221	322	1,543	60	2,433
1881	890	557	1,447	22	2,213
1882	606	601	1,207	12	2,065
1883	589	855	1,444	11	2,336
1884	558	788	1,346	5	2,219
1885	636	790	1,426	27	2,250
1886	534	864	1,398	57	2,281
1887	421	603	1,024	64	2,038
1888	379	682	1,061	81	2,098
1889	605	820	1,425	136	2,363
1890	534	660	1,194	174	2,169
1891	454	603	1,057	154	1,922
1892	279	551	830	87	1,500

\* There seems, however, to be little direct evidence of the adulteration of liquor with injurious matter. The reports of analysts that I have met with show that water is the chief ingredient of adulteration, though colouring and flavouring matters are also used, which, however, do not appear to be particularly hurtful. New spirit is, of course, very poisonous, and the violently evil effects sometimes produced appear to be often attributable to this cause rather than to the introduction of poisonous adulterants. The belief, however, is prevalent that much injurious adulteration of spirits is practised.

These figures appear to show that the energy of the present sheriff in putting down drink-shops has borne fruit in a considerable falling off of drunkenness. Those arrested for drunkenness only are simply held in custody, and when sober discharged; those for drunkenness and disturbance are supposed to be put before the court and sentenced. It has been alleged that for political reasons many offenders have been simply discharged after a night in the police station, without any proceeding being taken against them or any record being kept of their arrest. I cannot tell to what extent this charge may be true, but I have been told on what appeared to be good authority that it was not altogether without foundation. Many intoxicated persons, of course, come upon the streets who are not arrested.\*

The following is a return of the number of prosecutions on indictment for violation of the liquor law in five of the most populous counties, and also in the whole State, in several years:—

Year ending Nov. 1.	Cumberland, Pop (1890) 91,000.	Androscoggin, Pop. 49,000.	York, Pop. 62,000.	Penobscot, Pop. 72,000.	Kennebec, Pop. 57,000.	Whole State.
1881	174	66	111	37	135	646
1883	155	40	116	59	57	628
1884	156	133	63	101	229	818
1885	198	44	62	110	142	798
1889	154 (242)	95 (129)	47 (84)	85 (145)	244 (289)	786 (1,231)
1890	66 (167)	81 (116)	13 (58)	91 (129)	179 (232)	649 (1,122)
1891	202 (286)	84 (101)	67 (92)	49 (96)	154 (199)	810 (1,203)

The figures in brackets against the years 1889—91 show the total number of indictments for offences of all kinds. It will be seen that these liquor cases form generally a majority, and often a very large majority, of the whole number.

The published returns of indictable offences show a small number of prosecutions for drunkenness, but such cases are

\* For a comparison of arrests in Portland and other cities, *see* p. 73.

generally dealt with summarily in the lower courts, for which no returns are published.

According to the official prison report, in the year ending November 30th, 1892, 1,714 persons were committed to the county jails for drunkenness, and 348 for selling liquor.

One of the points in which the advocates of prohibition find the law defective is the opportunity which the forms of procedure offer for delay in the final adjudication. Some of the offences under the liquor laws can be tried only on indictment, others are triable by the municipal courts, but in these cases the defendant may always appeal to a jury. When the indictment is presented\* the defendant's attorney may, and generally will (unless he has a good case for an acquittal), demur on some technical ground to the indictment, whereupon the trial has to be postponed; or, instead of taking that course, he may, after a verdict, move to stay sentence; in either case the defendant may not be finally sentenced till a full year or more has elapsed since he committed his offence.† It is true that the Attorney-General has a right to apply in a summary way to the Supreme Court to dispose of a demurrer if it is frivolous; but this power seems to be rarely exercised.

The statistics published with the annual report of the State's Attorney-General appear to show that nearly every one of these liquor cases is taken to the Supreme Court, where the exceptions are almost invariably overruled. Attempts are

\* Indictable offences are tried in Cumberland and in two other counties before what is known as the "Superior Court"—a court especially appropriated to the county, and having full criminal and limited civil jurisdiction. In counties which have no Superior Court, the cases are tried before a judge of the Supreme (State) Court on circuit. Sessions of the Superior Courts are held in January, May, and September.

† For example, a man is brought up in September before the municipal court; he appeals to a jury; the matter goes before the grand jury in January and comes on for trial. Exceptions are taken to the indictment; the case stands over till July, when the Supreme Court sits to deal with these cases. The exceptions are overruled and the case is finally disposed of at the September session of the Superior Court.

being made to amend the law by requiring a defendant who adopts these dilatory tactics to find sureties in substantial amounts for his appearance.

It is said that there is no difficulty in getting juries to convict in liquor cases. Indeed, I was told that when a Portland liquor-seller comes up before a Cumberland county jury composed largely of farmers, there is more danger of some prejudice being manifested against him than any undue feeling in his favour.

Bangor (population nearly 20,000), the third largest town in the State, is a contrast to Portland. Bars are open in the hotels, in eating-houses, and grocers' shops, and liquor is freely sold by apothecaries. The bar is set behind a curtain or partition running across a portion of the back part of the shop; but no particular trouble is taken to make the screen effective to prevent the liquor being seen from the street, and, wherever the screen appears, it is as sure a sign of what is within as a Red Lion swinging over the door. The customer walks in and is served without any concealment. Beer is very commonly called for, but every kind of drink is to be had. It is said, however, that not much drunkenness is seen in Bangor, except during a short time in the spring, when there is an influx of lumbermen (many of them French-Canadians), who come down at that period from the backwoods, where they have been living a hard life without access to liquor. A portion of the drunkenness which exists is ascribed to the villainous stuff sold under the present conditions of the trade. The number of liquor shops has been estimated as high as 300 or more; whether or not this is an exaggeration, the number is certainly very large.\* In one part of the town they are crowded together, and they occur at frequent intervals in other parts, from the superior restaurant to the low "dive." Apothecaries serve out drink in the back part of their shops, where they compound their medicines.

\* See note on p. 114.



A few years ago an attempt was made by the State to enforce the law in Bangor by means of the provision authorising the Governor to appoint special officers. I had some conversation with an officer (now a private detective) who was appointed for this purpose. He told me that he was a strict abstainer and favourable in principle to prohibition. In the state of opinion in Bangor, however, he found it utterly impossible to enforce the law. Both the citizens and the municipal authorities were opposed to him; he could obtain no support, and his position soon became so odious that he abandoned his task, and things in Bangor went back to their usual condition. One of the prominent prohibitionists of the place, while he did not appear to realise the full extent to which the law is openly evaded, admitted to me that local public opinion did not support a strict administration, and he even said that he thought a high-licence law combined with local option preferable in practice to prohibition, in cases where public sentiment allows the prohibitory law to be flagrantly violated.\* The opinion in favour of high-licence and local option seems to be general in Bangor. A restaurant keeper told me that he would willingly pay 1,000 or even 1,500 dollars a year in duty, if there were properly enforced licence laws. At present it seems that the liquor-sellers have generally to pay what is virtually a licence duty varying from 110 to 60 dollars. It is levied as a fine. The United States liquor tax is strictly collected, and the county officials occasionally inspect the collector's books, and bring up before the courts those who have paid the tax, who are thereupon fined for violation of the State law. They never know when the law will come down

\* This gentleman's first remark to me, when I had explained that the object of my visit was to obtain information, in view of the possibility of a stringent liquor law being proposed in Great Britain, was, "Keep it away from politics." Politics, however, seem to have a double effect in Maine, weakening the opposition to the law itself, as well as weakening the enforcement of the law.

upon them, but experience leads them to expect a prosecution about once a year.\*

In other parts of the State the law is enforced, so far as the towns are concerned, with varying vigour and success. In Androscoggin county the traffic is driven into secret places, and I was told that the new sheriff recently elected for this county was likely to act with vigour. The chief city, Lewiston (population, 21,000), is said to contain as many as fifteen active "beer clubs," with an average membership of fifty. All such clubs are illegal, since every "place of resort," where intoxicating liquors are kept or drunk in any manner not provided for by law, is declared to be a common nuisance.† In some other counties greater laxity prevails; as for example, in Augusta and Gardiner in Kennebec county, and in Belfast in Waldo county, etc. Nowhere, however, is the law quite so flagrantly and openly violated as in Bangor, unless there may be some other places in the same county (Penobscot) where a similar state of things exists.‡

Some of the towns contain a considerable number of

\* The law imposes imprisonment as well as fine for most liquor offences. In these cases in Bangor no imprisonment is inflicted. The offence charged may, perhaps, be that of keeping a common nuisance, which does not necessarily involve imprisonment. In the *Brewers' Journal*, March, 1893, I read that one of these raids had just taken place, when 297 liquor-sellers were indicted in one day.

† At clubs in Maine the members have private lockers, in which each can keep his own supply of wine, etc.

‡ A correspondent in Portland (one likely to be well informed, but no friend of prohibition) wrote to me, in April, 1893:—"In Cumberland county the law is enforced exactly as it was when you were here. We have our regular crop of drunken labouring men on Sundays. The liquor is of the kind you saw in the 'Rum Room' under City Hall. In other counties in the State, I am informed that the enforcement is even less rigid than it has been for some time past. In all the coast counties, except Cumberland county, practically, liquor is sold as freely as in Bangor. At the Augusta House this winter, during the session of Legislature, the bar was as open as a like bar would be in Chicago." (See Note at the end of this chapter—"A Liquor Raid in Maine.")

French, who seem less generally than the English-speaking population to have adopted the habit of total abstinence.

A feature peculiar to Maine is the succession of places, all along the coast-line, which are frequented as holiday resorts during the summer months by visitors from New England and more distant parts of the United States, and from Canada. At some of these places certainly, and, according to my information, at the great majority of them, the prohibitory law is practically inoperative, so far as the summer visitors are concerned,\* and it is evident that the profits of hotel-keeping in the short season during which such places are frequented might be seriously affected by the diminution, both in the number of visitors and in the sources of profit, which would be likely to result from a strict enforcement of the law. The popularity of these summer resorts is regarded as an important element in the general prosperity of the State.

Turning from the towns to the country districts which contain the great bulk of the population,† there seems to be no doubt that here prohibition is very generally effective. It is admitted on all sides that the consumption of liquor outside the towns is extremely small, except, indeed, in some parts in the north and east near the Canadian frontier, where many French are found, and where liquor is easily brought across the border. With this exception, the law seems to be easily enforced, the consumption being small and the demand small.

The custom, once general, of supplying workmen with

\* At Bar Harbour, at least, drink-shops (apart from the hotels) are not unknown. I was told that it had been the practice at one of these watering-places for the authorities to "discover" at the end of the season that the law had been evaded, and to confiscate to their own use the remainder of the stock, which was carefully regulated so as to be neither too large nor too small.

† The population of Maine is about 600,000, of which only about 185,000, or two-sevenths of the whole, live in nineteen towns having a population exceeding 3,500. The State contains an average of twenty-two inhabitants to the square mile.

spirit rations at harvest time and on other occasions is now unknown; and in much of the agricultural portion of the State, comprising a large portion of the whole area and population, the demand for drink seems almost to have disappeared, and the supply to be rarely met with.

There is said, however, to be, to a limited extent, a consumption of cider and a sale of cider for drink. The exception in the prohibitory law in favour of cider is made in the interest of the farmers, who in other respects are the most uncompromising advocates of prohibition. Apples are one of the leading crops in some of the best agricultural districts in the State; the selected fruit being exported, and a portion of the remainder pressed into cider. The law does not permit its sale "as a beverage or for tippling purposes;"\* the vendor, however, is not bound to be inquisitorial, nor does he usually ask questions. No very active steps seem generally to be taken for checking the illicit sale of cider, but it does not appear to be thought that the law is violated to any serious extent.

In attempting to ascertain the working of the Maine Liquor Law, one point which it is necessary to take into account is its relation to politics. The law itself is a matter of State politics; its enforcement is a matter of local politics. The prohibition party, though comparatively small, is extremely active, and wields an influence disproportionate to its numerical strength, inasmuch as the great political parties are equally enough divided to render the support of the prohibitionists a matter of great importance to the maintenance of the existing Republican majority. Thus the prohibition movement has received much support from motives of political expediency, but I was assured that a large number of Republicans are in their own mind strongly opposed to it.† The party managers, however, tell

\* Cider is used for making vinegar and for cooking purposes.

† The belief was confidently expressed to me that among voters of the more intelligent and socially higher class as many as 90 per cent.

them that in the interest of the party they must vote for it, and they vote accordingly. Prohibition is favoured by some who are not total abstainers, but who are influenced by a sense of the social evils resulting from the retail liquor trade. The farmers, however, are the backbone of the movement.

Through its alliance with the Republicans the prohibition party has been enabled not merely to maintain the law, but to make it part of the Constitution of the State, and to secure the passing of a series of amendments of increasing severity to the original statute.

The State Legislature, however, which makes the law, is not concerned in enforcing it ; and it has been commonly said that many people are in favour of the law and against its enforcement. As already explained, the county sheriff is the officer on whom this duty devolves, and accordingly the election of the sheriff, once every two years, is an occasion which calls up the local forces favourable to a more or to a less strict administration in each county. It is well understood by the electors that this is the issue when they are called upon to vote for this or that candidate for the office ; and, therefore, a sheriff who exercises to the full his powers for the suppression of the drink traffic is not likely to be found in a county where the prohibition party is not both numerous and energetic. The Republican party, having supported the law to please the prohibitionists, is often inclined to conciliate the liquor-dealers by not pressing them too hard.

Another obstacle to a strict administration of the law is found in the great temptations to corruption to which the officers are exposed.

From these considerations it will appear that the question of the success or failure of the Maine Liquor Law is not to be judged solely by reference to the fact of its long existence and increased severity, and to the degree to which experience disapproved of prohibition, although certainly one-half, and probably not less than two-thirds, of them used no alcoholic liquors in their own houses.

shows it can be enforced where the officials are zealous, honest, and capable ; but account must also be taken of the operation of local public sentiment (particularly as evinced at the election of sheriffs), which in extreme cases has resulted, as at Bangor, almost in the establishment of a free trade system by local option, in defiance of the State law. The consideration of this question suggests the further (speculative) question : "If prohibition were vigorously enforced by an adequate staff of officers, irrespective of local sentiment, how would the majority in the State Legislature in favour of the retention of the law be affected?" To this, no positive answer can be returned ; opinions certainly would widely differ ; one official of much experience declared to me that, in his judgment, prohibition would bear the strain of strict enforcement : undoubtedly many would look for the opposite result.

An illustration of this side of the question may be taken from the last election of the sheriff for Cumberland county, which includes the city of Portland.

The ordinary practice is that the sheriff, at the close of his first term of office, is re-elected for a second term, after which he retires. The present sheriff, who has brought about the rigid enforcement of the law during the past two years, was, in the autumn of 1892, put up again as the official candidate of his party, according to custom. He carried his election, but carried it only by a narrow majority—the normal majority of his party being at the time, as shown in the election of other officers, much greater. This fact proves that, after a fair allowance made for cross-voting (some Democrats being ardent prohibitionists),\* a considerable body of Republicans found their hostility to an uncompromising enforcement

\* I was told also that a number of anti-prohibitionists voted at this election for the present sheriff, on the ground that as long as the law existed it ought to be enforced ; that the proper object of attack was the law itself and not its administration ; and in the belief that a vigorous administration would result in strengthening the movement for repeal.

of prohibition stronger than their party allegiance. The opinion was confidently expressed to me that the party organisation would not a second time stand such a strain, and that the Republican managers will, on the next occasion, be careful not to select a candidate likely to rouse hostility in the party by his known determination to give full effect to the law.

On the other hand, I have heard the opposite opinion held, that the re-election of this sheriff, even by a narrow vote, in the face of the personal enmities which his administration had aroused, and the strong anti-prohibition spirit prevalent in Portland (stronger, probably, than in any other county, except one, in the State), is evidence of the possibility of making prohibition permanently effective.

Time alone can decide between these views ; much will depend on the future increase or decrease in numbers and influence of the active section of the prohibitionists.

The past strength in Maine of this active section—which, in fact, comprises the whole prohibition party, properly so-called, viz. those who at popular elections vote for a prohibition candidate in preference to a Republican or a Democrat—is shown in the following figures, giving the votes cast for the prohibition candidate at the last three presidential elections :—

1884	...	2,160	out of 130,460 votes cast for all candidates.		
1888	...	2,690	„ 128,250	„	„
1892	...	3,060	„ 116,420	„	„

The prohibition vote in Maine is smaller than in some other States ; but this, doubtless, is due to the fact that Maine already has legislative prohibition, and the supporters of that system are therefore free, so far as their own State politics are concerned, to vote as Republicans or Democrats. State prohibition does not meet all the aspirations of prohibitionists, but, naturally, takes off much of the keenness of prohibitionist agitation in States which have adopted it.

The most conflicting statements have been made regarding the general questions of crime, insanity, and pauperism in Maine. The opponents of prohibition draw attention to the great increase of crime since 1850, statistics showing it to have increased in a much higher ratio than the population. On the opposite side, it is claimed that prohibition has done much to check crime, and that if the law were repealed crime would increase. No attempt will be made here to draw inferences—which must be largely speculative—from such facts as can be established on one side or the other. I am content to give a few figures taken from official sources, and to leave it to others to form their own conclusions on this subject.

NUMBER OF PRISONERS IN STATE PENITENTIARY AND COUNTY JAILS.

					June 1,		November 30, 1892.
					1880.	1890.	
State penitentiary	...	...	...	...	213	170	135
County jails	...	...	...	...	185	302	400

The figures for 1880 and 1890 are from the United States census, those for 1892 from the Reports of State officials. The chaplain of the State Penitentiary,\* in his Report for the last-mentioned year, states that 46 per cent. of the prisoners were, according to their own statements, teetotallers. It will be observed that the penitentiary return shows a steady diminution of prisoners, and the jail returns a steady increase. Taking the two classes together, the following figures show—(1) the ratio of prisoners per million inhabitants in Maine, and (2) the average ratio for all the nine States included in the

\* In Maine it is not called the Penitentiary, but the State Prison. The term "penitentiary" is here used as being the usual name in the United States for the institution corresponding to our convict prisons, to which the more serious cases are sent.



North Atlantic division in the census (Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania).

	June 1,		November 30, 1892.
	1880.	1890.	
Ratio of penitentiary and county prisoners per million of population :			
(a) in Maine ... ..	613	714	832*
(b) on the average of the nine north-eastern States ...	1,062	1,221	—

The census of 1890 showed Maine to have a penitentiary population very largely below, and a county jail population slightly above, the average of the nine States in proportion to population. The above figures give Maine a comparatively low prison population, though a decidedly increasing one—the increase having been greater from June, 1890, to November, 1892, than during the whole of the previous ten years. It need hardly be said that an increase of convicts does not always imply a corresponding increase of crime. Fresh legislation and increased executive efficiency may account for much.

#### JUVENILE OFFENDERS.

	June 1,		November 30, 1892.
	1880.	1890.	
Number of juvenile offenders in Reform School, Maine... ..	116	169	100
Ratio of inmates of Reform School per million of population, Maine ...	179	256	151
Average ratio for the nine north-eastern States ... ..	469	425	—

\* Based on the census population of 1890. The increase of population in Maine was less than 2 per cent. from 1880 to 1890.

The statistics from the Insane Hospital show a great and progressive increase of patients :—

	Daily average number of inmates.					
1850-1	...	...	...	...	...	75
1855-6	...	...	...	...	...	167
1860-1	...	...	...	...	...	248
1865-6	...	...	...	...	...	277
1870-1	...	...	...	...	...	363
1875-6	...	...	...	...	...	398
1880-1	...	...	...	...	...	442
1885-6	...	...	...	...	...	506
1890-1	...	...	...	...	...	649
1891-2	...	...	...	...	...	685

The following statistics of pauperism are taken from the census returns. Maine shows a very slightly lower ratio than the average of its group :—

			June 1,	
			1880.	1890.
Number of paupers in almshouses, Maine	...	...	1,505	1,161
Ratio per million of population, Maine	...	...	2,319	1,756
Average ratio for the nine north-eastern States	...	...	2,339.	1,790

In regard to "outdoor" paupers, the census attaches to Maine a number very considerably in excess of the average.

#### NOTE.—A LIQUOR RAID IN MAINE.

The following extract from the *Boston Herald* describes a raid which occurred at Lewiston several months after my visit to Maine. Whether or not it be accurate in all respects, I give it *in extenso* as a somewhat picturesque description of the sort of thing which might very well, and probably would, happen on a determined raid being made on the liquor-sellers in a place where the law was being violated as flagrantly as it has been in at least one or two, if not more, of the larger towns in Maine :—

#### "RAMRODS" CAUSE A PANIC.

##### RAIDS IN THE "TEMPERANCE TOWN" OF LEWISTON, ME.

Nearly \$10,000 worth of Liquors seized from about 40 Saloon-keepers—  
Dealers unable to hide bottles pass them out to Loafers, who get free "Jags."

[*Special despatch to the "BOSTON HERALD."*]

LEWISTON, Me., March 28, 1893. —The liquor-sellers of this city were

to-day surprised by the most remarkable raid ever made in Maine. Nearly \$10,000 worth of intoxicating liquors were confiscated.

For three months the saloons of Lewiston have been run openly, and liquor has been hauled through the streets as freely as groceries.

At seven o'clock this morning there were at least 250 places in this city where liquors might be secured at retail.

The policy High Sheriff Hill intended to pursue has been a matter of speculation ever since the county honoured him with the office, January 1, 1893. Some said he intended to enforce the liquor laws, while others persisted that he had been supported by the saloon element, and would be lenient.

Week after week passed, excitement over the election subsided, the Law and Order League and the Women's Christian Temperance Union were "mum," county officials and the police department closed their eyes, and clear was the sailing for the rum crowd.

The time came, though, about two weeks ago, when the politicians engaged in the liquor business who claimed to have a "pull" found that the kitchen bar-rooms were cutting into their business heavily.

Competition became so close that it was found necessary to sell good liquors, something unheard of in Lewiston before.

Dissatisfaction was manifest, and the wealthier retailers complained openly and loudly against the small fry.

The rum smugglers protested. They had been out of work for some time, as the railroads were bringing in liquors unmolested, while a few months ago dozens of smugglers made money smuggling at night-time from country stations.

Their prayers were heard, and it brought about one of the most remarkable raids in the history of Lewiston.

At seven o'clock this morning Sheriff Hill had his deputies all gathered in the office at Auburn, together with Llewellyn Maxwell, of Auburn, and James O'Brien, of Lewiston, who had just been appointed special liquor officers. The officers numbered fourteen, and were divided into seven squads.

Dozens of warrants had been issued, and promptly at nine o'clock the force marched across the bridge into Lewiston.

The saloon-keepers were caught with their doors wide open and business huming.

Truck teams were in readiness, and over to the Auburn Court-house yard went load after load of beer and whisky.

The Democrats of Lewiston smelled a rat, and before Sheriff Hill's force got well under way, City Marshal McDonough, with his police force, was doing valiant work for the cause of temperance.

The city marshal secured a storehouse full of liquors, as well as a car-load, and gathered load after load which the frightened saloon-keepers

had rolled from their back doors and windows after the panic had struck.

The streets were crowded, and excited mobs followed the officers from one place to another.

One shrewd man succeeded in hauling his supply to an empty car in the railroad yard, and, it is said, he succeeded in getting it out of the city.

Every spare vehicle was employed, and every one was loaded with kegs or packages of some kind. Some of it was going to places of hiding, while that which had been seized went either to the Democratic police head-quarters, in Lewiston, or Republican head-quarters, in Auburn.

A 14-year-old boy, wearing a slouch hat, and disguised as a truckman, whose team was standing near, walked up to a car door, and, innocently taking a case of whisky from the sheriff's hands, fled precipitately, while the crowd yelled and laughed.

Lots of the saloon-keepers, finding they had more liquors than they could get away with, passed it out free to the sympathising loafers, and everybody in the habit of drinking soon had a "jag."

The officers succeeded in securing the stock-of-trade from about forty saloons, but succeeded in arresting only about a dozen proprietors.

Beer for a while will be ten cents a glass, instead of five, in Lewiston.

## CHAPTER VIII.

## KANSAS.

## (Prohibition.)

PROHIBITION has been the law of this State for the past twelve years.

A prohibitory amendment to the Constitution was adopted in November, 1880, by a majority of 8,000 votes ; 92,000 for, and 84,000 against, the proposal. The whole number of votes cast at the election of that year, however, was upwards of 200,000 ; more than 24,000 voters, therefore, who took part in the election abstained from casting a ballot on this particular question.

Effect was given to the popular decision in the prohibitory law passed in 1881, by which no person was permitted to sell intoxicating liquors, except a druggist holding a permit for that purpose, and then only for medicinal purposes on a physician's prescription, or for scientific or mechanical purposes. A physician could not prescribe stimulants until he had filed an affidavit pledging himself to do so only when, in cases of actual sickness, it was necessary for the patient.

The "doctor's prescription" test does not, however, appear to have proved effectual or to have given satisfaction. There was a class of physicians who prescribed stimulants for the mere purpose of evading the law, and purchases would be made over and over again on the same prescription. At the same time it was felt to be derogatory to those, whose high character removed them from any suspicion of complicity in such practices, that they should be called upon to bind themselves under special oaths to abstain from improper conduct in their profession. Accordingly, in 1885 a law was passed enabling druggists holding permits to sell liquor upon a sworn application stating for what purpose it was wanted.

In 1887 this provision was further strengthened, and the sale of liquor for the authorised purposes is now allowed to be conducted only under very minute restrictions.

Another measure adopted in 1885 was the vesting in each county attorney of power to summon and examine persons believed to be able to give evidence of violations of the law.

In 1887 a further step was taken with a view to the better enforcement of prohibition, by the passing of a law providing for the appointment of Police Commissioners in any city where such a course was considered desirable with that object.

A more detailed summary of the law follows :—

The general prohibitory enactment is as follows :—

“Any person or persons who shall manufacture, sell, or barter any spirituous, malt, vinous, fermented, or other intoxicating liquors shall be guilty of a misdemeanor, and punished as hereinafter provided. Provided, however, that such liquors may be sold for medical, scientific, and mechanical purposes, as provided in this Act.”

Liquors may be sold for the above-mentioned purposes only by a druggist holding a permit from the Probate Judge of the county in which he does business. The judge is authorised at his discretion to grant a permit for one year to any registered pharmacist of good moral character, “who in his judgment can be entrusted with the responsibility of selling said liquors for the purposes aforesaid in the manner hereinafter provided”; and the judge may at any time in his discretion revoke the permit. The application for a permit has to be signed by the applicant and twenty-five reputable freeholders having the qualifications of electors, and twenty-five reputable women over twenty-one years of age, of the township, city of third class, or ward of any other city wherein the business is located. The application must state, among other things, that the applicant is a person of good moral character, does not use intoxicating liquors as a beverage, and has in his business, exclusive of intoxicating liquors, a stock of drugs, if in a city, worth at least \$1,000, and, if elsewhere, \$500.

Notice of the application and of the time and place appointed for hearing it has to be published, and the statements in the application have to be proved. If the permit is granted, the

applicant has to enter into a bond in \$1,000, as security for his compliance with the law. Either the applicant or any citizen aggrieved by the decision of the Probate Judge may appeal to the district court, which, if the judge appears to have abused his discretion, but not otherwise, may reverse his order.

On a petition for cancellation on the ground of violation of the law, signed by twenty-five reputable men and twenty-five reputable women residing in the same township, city, or ward, the Probate Judge is required to summon the permit-holder, and inquire into the case, and if there are reasonable grounds for believing that he is not in good faith carrying out all the provisions of the law, the permit is to be cancelled subject to appeal to the district court. This provision, however, does not prevent the judge from cancelling the permit at any time on his own motion.

A physician may prescribe liquor to his patient; "but no such prescription shall be given or liquor administered except in case of actual need, and where in his judgment the use of intoxicating liquor is necessary." The penalty for giving a prescription in violation of the law is a fine ranging from \$100 to \$500, and imprisonment 10 to 90 days.\*

The sale of liquor by permit-holders is hedged about with minute restrictions. The purchaser must first make an affidavit in the following form (for which purpose the druggist is authorised to administer an oath) :—

"State of Kansas, County of

"I, the undersigned, do solemnly swear that my real name is  
 ; that I reside at county, State  
 of ; that of is necessary and actually  
 needed by ; to be used as a medicine for the disease  
 of ; that it is not intended for a beverage, nor to sell,  
 nor to give away; that I am over twenty-one years of age. I  
 therefore make application to , druggist, for  
 said liquor.

, Applicant.

"Subscribed in my presence and sworn to before me, this  
 day of .

, Pharmacist.'

\* A physician having no permit cannot lawfully prescribe liquor as a medicine to a sick patient, and charge and receive pay for it. (State v. Fleming, 32 K. 588.)

A corresponding form of affidavit is prescribed on a sale for mechanical or scientific purposes. There may be only one sale and one delivery on any one affidavit ; and the druggist is not under any circumstances to allow liquor to be drunk on his premises.

Licence-holders are allowed to sell to one another in quantities not less than a gallon.

Elaborate provision is made for the proper authentication of the affidavits, blanks for which are to be supplied by the county clerk in book form. The blanks are all numbered, and, when filled, are, together with the druggist's affidavit that they represent all the sales made by him, to be filed monthly in the office of the Probate Judge, who is required to make a careful examination of them and see that there has been no irregularity. The druggist has likewise to make a sworn monthly return of his stock of liquor, and of all purchases of liquor made by him during the preceding month, and the names of the persons from whom purchased. Persons making false affidavits are guilty of perjury, and punishable with imprisonment from six months to two years with hard labour, and anyone signing a false name to an affidavit is declared guilty of forgery in the fourth degree.

The druggist is further required to keep in a book a full record of every sale, with all particulars ; the record and affidavits to be open at all reasonable hours to public inspection.

A similar permit has also to be obtained by anyone desiring to manufacture liquor for medical, scientific, and mechanical purposes. The application in this case must be signed by a majority (in cities of the first or second class by 100) of the resident electors ; and the amount of the bond (which has to be backed by three substantial sureties) is \$10,000. A manufacturer may sell only in original packages, and only to druggists holding permits, and under elaborate provisions as to affidavits and records. His permit continues in force for five years.

The penalty for manufacturing or selling without a permit is a fine of \$100 to \$500, *and* imprisonment 30 to 90 days ; and a permit-holder who fails to comply with the requirements of the law in regard to sales of liquor is subject to the same punishment, and is to forfeit his permit and be disqualified for five years from receiving another.

The prohibitory law does not, however, apply to the making of wine or cider from grapes or apples grown by the person making it, for his own use, or the sale of wine for communion purposes.



All civil officers are required under penalty to give notice to the county attorney of any violation of the law, and furnish him with the names of witnesses.

All places where intoxicating liquors are illegally manufactured, sold, bartered, or given away, or are kept for any such purpose, are declared to be common nuisances, and, upon the judgment of a competent court declaring a place to be a nuisance, the sheriff is to shut up and abate it, and the owner or person keeping it is to be fined \$100 to \$500, *and* imprisoned 30 to 90 days. A perpetual injunction may also be obtained, violation of which is punishable as a contempt.

Anyone taking charge of an intoxicated person may recover reasonable compensation, and also five dollars a day from any person who sold the liquor causing the intoxication.

The civil damage clause includes exemplary damages, but is directed only against anyone who by selling, etc., *caused* the intoxication. Notice not to sell may be given.

Any person who, directly or indirectly, keeps or maintains by himself, or combining with others (or who assists in keeping or maintaining), "any club-room or other place in which any intoxicating liquor is received or kept for the purpose of use, gift, barter, or sale as a beverage, or for distribution among the members of any club or association by any means whatever," and anyone who uses, barter, etc., any liquor so received or kept, is on conviction to be fined \$100 to \$500, or imprisoned thirty days to six months.

Giving liquor to minors is forbidden.

"The giving away of intoxicating liquor, or any shifts or device to evade the provisions of this Act, shall be deemed an unlawful selling within the provisions of this Act."

On notice of any violation of the law, the county attorney has power to summon and examine persons whom he believes able to give evidence, and to punish for contempt any who refuse to answer questions (1885).

Warrants for search and seizure can be obtained.

Probate Judges, county attorneys, county clerks, and other civil officers, are expressly made subject to severe penalties and forfeiture of office for neglect or refusal diligently to perform their duties in enforcing the liquor law.

Any common carrier who knowingly carries liquor, to be sold in violation of the law, is punishable with fine and imprisonment.

A separate Act, passed in 1887, forbids the sale or giving of liquor at any election, within half a mile of a polling place.

Another Act of the same year provides that the Executive Council is to appoint a board of three Police Commissioners for each city of the first class, "if considered expedient, and upon the presentation of a petition of two hundred *bonâ fide* householders of such city having the qualifications of electors, or when said Executive Council shall deem it advisable or necessary for the better and more perfect government of such city."

The Police Commissioners are to appoint a police judge, a marshal (to be chief of the police), and as many policemen as are deemed necessary, not exceeding one to 1,500 inhabitants; but they may also, on occasion, appoint special policemen. The marshal and policemen so appointed have exclusive power, and it is their duty, to serve all process issued by the police judge, and they have all the powers of constables, except for service of civil process. Neither the mayor nor Municipal Council has any control over this force, which is entirely under the Commissioners.

During the time that the police government is administered under this Act, all Acts of the Legislature and all city ordinances inconsistent with this Act are inoperative.

Kansas has in recent years attracted the attention of those interested for or against prohibition to a greater extent, probably, than any other State. Its effects have been lauded and condemned in equally emphatic terms, and have been overstated by partisans of either view; but exaggeration is the necessary accompaniment of a controversy so keen and bitter as this has been and still is. The measure was carried and upheld, and its repressive features were subsequently strengthened, by means of an agitation carried on with great persistence by its active partisans, and by means of severe pressure brought to bear on candidates of the Republican party at State and municipal elections.

It can hardly be doubted that political exigencies rather than personal conviction dictated the action of very many of those who supported the movement. It was repeatedly made clear to Republican candidates for office that their hold upon a number of votes sufficient to control the election depended

on their pledges of allegiance to the cause of prohibition. As in Maine and Iowa and other prohibition States, success was gained by the efforts of a zealous and uncompromising minority holding the balance between the two great political parties, and thus controlling the action of one of them.

It is, however, strongly claimed by the Kansas prohibitionists that their policy has proved itself a success, that the battle is won, and that prohibition is firmly planted as one of the permanent institutions of their State. Whatever developments may ensue in the future, there seems to be reason for believing that, at the present time at least, the question has to some extent passed from the phase of acute political controversy to that of a general acquiescence in the existence of the law on the part of the majority of the public at large, if not a settled balance of active popular sentiment in its favour. Such a condition would seem to justify the claim of a more advanced position for the prohibition movement in Kansas than in other States, where certainly it is by no means clear from the struggles and intrigues of party politics.\*

Two circumstances, related to me by friends of prohibition, may be mentioned as indicating the general attitude of mind on the subject in Kansas. At the time when the celebrated "original package decision" appeared to have struck a serious if not fatal blow at the whole movement for State prohibition, by removing the possibility of restricting the sale of liquor in original packages as brought into the State, a strong and general rally was, as I have been assured, manifested in Kansas in favour of taking whatever steps might be necessary for defeating the realisation of this prospect; so that even men who were not teetotallers, and had never been looked on as prohibitionists, joined those who were acknowledged partisans in declaring their opposition to the return of what they regarded as the nuisance of the saloon.

\* Quite recently, the State's attorney-general has published some remarks unfavourable to prohibition.

Again, more recently, the question of calling together a convention for the purpose of considering certain amendments to the State Constitution was under discussion ; but many who thought that the Constitution in some respects needed modification, abandoned the project in order that the opportunity might not be taken for proposing to reopen the question of prohibition ; and the convention was not held.

A prohibitionist lawyer of position, in reply to a letter in which I had put to him certain questions upon the position of affairs in this State—amongst others, whether the existence of a strongly favourable local sentiment was not necessary to the due enforcement of prohibition—stated, “It is certainly true that if the people of Kansas were to be instantly displaced by such as the common people of London or New York, our liquor law would immediately become inoperative. Until some such change takes place, I doubt very much if the people of the State will ever give the saloon its old position. Politicians do not want it, because they do not relish the return of the liquor-dealer to his old place as a political dictator. The citizens do not want it, because they see no way in which it will benefit the State.” He referred also to “the testimony of a vast majority of the people of the State, who by their votes have declined to repeal the law, or re-submit to the people, or modify it, or in any way banish it from our books. That such change may some time come as a result of a political disquiet, or a general moral disintegration, is no doubt true, but, so far, there seems to be no likelihood whatever of any immediate occurrence of that kind.”

It is claimed, and probably with reason, that the extension of the municipal franchise to women has tended to strengthen the position of the prohibitory law.

The State of Kansas was admitted into the Union in 1861 its area is 82,000 square miles ; and it is essentially an agricultural State. Its development after the War was very rapid,

the population being, in 1860, 107,000; in 1870, nearly 365,000; in 1880, nearly a million; and in 1890, 1,427,000. It was largely colonised from the old Puritan States of New England. It contains no city of first-rate importance, the largest, Kansas City, being credited by the last national census with a population of 38,000; and it has only seven towns with populations exceeding 10,000 each.\* The average density of the population for the whole State is about seventeen to the square mile.

It is generally claimed, and I believe is not seriously disputed, that, at all events outside the towns, prohibition is on the whole effective, or at least that, whether from the authority of the law, or the absence of any widespread demand for stimulants, the traffic in liquor is there reduced to very small dimensions. It is about the towns that the dispute as to the efficiency of the law is concentrated; and so conflicting are the replies given to inquiries on this head addressed to those who, by long residence, have had good opportunities for watching things as they are, that it is not an easy matter for a stranger with limited time for personal observation to see clearly through the mist of heated antagonisms which envelops the matter.

One who had travelled much on business in different parts of the State, and who certainly was not ill-disposed to the law, told me, in reply to a question as to the general efficiency of its enforcement, that he found it to vary much in different towns, according to the greater or less strength and activity of the local sentiment exerted in support of it. This, perhaps, is the safest and truest general answer that can be given to such a question; and, indeed, the opinion that the efficient execution of prohibitory enactments is possible only in places where they are actively supported by *local* sentiment, I found to be the settled conviction of many who in principle were ardent friends

\* Including Lawrence, with a population, according to the census, of 9,975 in 1890.

of prohibition. The informant just referred to stated, broadly, that he thought prohibition had done good; that is to say, it had done good where local public opinion supported it, as it did, in his belief, in the majority of the country towns. But where the local opinion was unfavourable, he found the law violated freely, as was the case in some of the small towns as well as the larger ones.

Where the public sentiment was distinctly prohibitionist, and the officers and police did their duty (as they generally would do in such a place), he found but few "joints," and believed that it was really difficult for the poor to get drink, though in such places the law was to some extent evaded by clubs formed for this purpose—and by "boot-leggers," "holes-in-the-wall," and other ingenious contrivances.

Clubs are of different kinds. There is the *bonâ fide* social club, in which the law no doubt is broken, since the consumption of liquor in a club is of itself illegal, but which has not the evasion of the law as the sole or perhaps the chief object of its existence; in such a club liquor is not sold to the members, but each member has a locker with his own supply. Other so-called clubs are mere inventions for cheating the law. In exchange for a small payment purporting to be an admission fee, the "member" receives so many checks, each of which is "good" for one drink. The "saw-dust club" is a variety of the same species, the ground being thickly strewn with saw-dust, beneath which the kegs and bottles are laid out of sight.

"Floodwood" clubs are associations which do not keep a permanent stock of liquor; but the members from time to time subscribe together and get in a supply from a neighbouring State sufficient for a single carouse.

It must always be remembered, in judging of the operation of prohibition in any one of the American States, that the mere *consumption* of liquor is not forbidden, nor is anyone prevented from having liquor brought into the State from outside for his

own use. Thus, to take an instance; a resident in Topeka or Lawrence may telephone to Kansas City (Missouri) any morning for a bottle of whisky, and have it delivered to him the same day. There is no violation of the law in this.

That the law of Kansas has been violated by means of clubs and countless other devices, and is still in a greater or less degree violated by such means, is a fact beyond dispute. Whether the extent to which it is so violated betokens a general break-down of the attempt to establish it as a practical measure is another question. Its advocates all admit that it has been, and will continue to be, evaded, but maintain either that it is now, or that it is well on the way towards becoming, as well enforced as most other laws—the larceny laws, for instance; and they claim that, even when imperfectly enforced, it still checks drinking, and prepares the way for good results which it may not at once make manifest.

Voluntary organisations—and chief among them the Women's Christian Temperance Union—display much activity in endeavouring to excite public opinion in favour of a strict administration and in the prosecution of offenders. In illustration of this, I may give the following extract from the letter of a correspondent—a lawyer in practice in a small town in the southern part of the State. He is an avowed and aggressive enemy of prohibition, and has written publicly in severe condemnation of what he holds to be its mischievous results. I do not wish unduly to give prominence to his views; still, so far as facts are concerned, he is here speaking of things occurring under his own observation. He writes to me:—

“My own court has been occupied for four days trying a druggist for the violation of the prohibitory law, and I am just from the place of trial; and, aside from the usual sights of a court-room—judge, lawyers, spectators, jurors, and loafers—there are ten ladies of the W.C.T.U., respectable Christian women, watching the proceedings and lending friendly, but (as they suppose) influencing and lobbying, aid to the prosecution. The trial will last another day,

with the probabilities of a hung jury in the end, which is the result in about two-thirds of the trials."

In a subsequent letter, I heard from him that the trial ended as he had anticipated—eleven of the jury for acquittal and one for conviction. In Kansas, as in other States, the difficulty of getting juries to convict is found to be a serious obstacle, though it is by no means the only serious one, in enforcing a law which is not backed by popular opinion.

The following extract from a newspaper will serve to illustrate the activity of the anti-liquor party in another way. Osage City is a town of about 3,000 inhabitants:—

"Topeka, Kas., *March 20th*, 1893.—The Rev. D. C. Milner, president of the State Temperance Union, has been lecturing in Osage County for two weeks. At Osage City, on Saturday, a car-load of liquors was seized and destroyed in the presence of a great crowd of people. The liquors were hauled out of town to an abandoned coal-shaft, where the bottles and demijohns were broken by the hundreds and the contents poured into the mine. Beer-kegs and whisky-barrels were piled on a bonfire, and thousands of gallons of liquor were burned. Most of the liquor destroyed was the property of Kansas City firms, who have opened saloons at Osage City."

So far as the majority of the larger towns are concerned, it is certain that much yet remains to be accomplished before the law can fairly be said to be efficiently enforced. As already mentioned, Kansas contains seven towns of 10,000 inhabitants and upwards. I believe that, as late as the present year, it would not be denied by any fair-minded person acquainted with the facts, that in five of them liquor was sold habitually and openly in defiance of the law. These five towns are: Kansas City, Atchison, Leavenworth, Wichita, and Fort Scott.

Of the first two I can speak, to some extent, from personal observation, and of the others from positive testimony given me, not once only, but repeatedly, and by friends as well as opponents of prohibition.



The position of Kansas City is peculiar. Politically, it is entirely distinct from its much larger namesake, Kansas City, Missouri. Topographically, it forms part of the same place, the boundary between the two States and the two municipalities being an imaginary line running down the middle of a street. Saloons in Kansas City, Kansas, are run quite openly, and, indeed, the law both in this and some other respects is quite a dead-letter. Gambling-houses, for example, which on the other side of the boundary are, to a certain extent, suppressed and driven into secrecy, are on the Kansas side conducted without any sort of concealment. I have heard this place described by a prohibitionist as the "dumping-ground" for the whole State, in which legal-moral restraints are thrown off.

But it is not the only point at which the liquor law has hitherto been openly and persistently resisted. At Leavenworth (population 21,000) the saloons, if not actually announcing themselves on the street-front, are numerous enough and not difficult to find. Access to them is unchecked, and no concealment is observed; drink is supplied at an open bar of the usual description. This place has from the first been opposed to prohibition. There have been times when efforts were made to enforce the law there, and when strangers would have been puzzled to find a dram-shop. A resident in the neighbourhood has told me that, even at such times, he could and did obtain liquor in Leavenworth, both at the drug-store and the hotel. Such efforts, however, have been short-lived; saloons have usually been conducted openly and without interference. Such was the case at the time of my visit, when I was told that they numbered about 125. They pay a monthly fine, amounting practically to a licence-fee. Some years ago, a State police force was established at Leavenworth under the Act of 1887, for the purpose of enforcing the liquor law; but the result was not a success. According to positive statements made to me, the powers of the Police Commissioners were used less for their

legitimate purpose than for the exercise of political pressure at elections.

At Atchison (14,000), I was assured that a similar state of things prevailed. Wichita (24,000) also appeared to be notorious for its successful resistance to the law. In the latter place, I heard of a large number of saloons, which were allowed to run on payment of a periodical fine.

The following extract relating to these towns is taken from a letter I received from a prominent lawyer, who has long resided in Kansas and is an ardent supporter of prohibition; it may be taken as expressing the views of those prohibitionists who recognise the real state of affairs in these places, but who are not thereby shaken in their allegiance to the cause. His contention that even here prohibition has been highly beneficial would, of course, be entirely rejected by many:—

“Three or four of our larger towns—like Atchison, Leavenworth, Fort Scott, Kansas City (Kansas), and Wichita—cannot be said to pay this law a high respect, though, when I remember the present condition of these towns, as compared with the condition before this law went into effect, I am prepared to prove a magnificent forward march. These last towns I name are on or near the border-lines, across which no law similar to ours exists. Thus, at Atchison, Leavenworth, and Kansas City (Kansas), Missouri is reached by merely crossing the river or an imaginary line, and Missouri is one of the worst liquor-cursed States in the Union. Wichita is largely affected by the proximity of the Indian Territory,\* with which the city has its principal business relations, and Fort Scott is settled by foreigners largely engaged in the mining business. In fact, the populations of Atchison, Leavenworth, and Kansas City (Kansas) are overwhelmingly foreign; Leavenworth is affected by the large military post there and by the presence of the State Penitentiary. These towns are certainly conspicuous, as compared with other towns in the State, for their trifling with the law. But, as I said before, even in these towns the change has been a radical one—one which only an old settler can readily appreciate.”

\* The distance of Wichita from the nearest point of the Indian Territory is nearly fifty miles in a straight line. Atchison, Leavenworth, and Fort Scott, as well as Kansas City, are all close to the eastern border.

Another observer of social and political conditions in this State, also a friend of prohibition, expressed to me his belief that there had recently sprung up in Kansas a general spirit of indifference to legal observance, contemporaneously with the growth of the "populist" movement in politics; and he attributed the existing want of respect for the liquor law in part to this cause.

The two remaining cities—Topeka (population 31,000), the State capital, and Lawrence (10,000), having the State university—have a different character from the other five. In neither of them can the law be openly violated with impunity. Of the extent to which it was violated in secret I had somewhat conflicting accounts. It would not be difficult to collect a number of instances in which liquor has been illegally bought and sold in these towns; but, on the whole, I found little direct evidence that this state of things prevailed extensively, though I met persons who were confident that much illegal drinking went on, and that a resident, though not a stranger, would have little difficulty in finding means to get behind the law. A resident of Topeka, who appeared to me to speak with knowledge and fairness, gave to that city a character which, if true, would go far to justify, so far at least as Topeka was concerned, the enthusiastic language of an ex-Governor—"I affirm, with earnestness and emphasis, that this State is to-day the most temperate, orderly, sober community of people in the civilised world." My informant certainly claimed for Topeka no less high a position than this.

Topeka has a "metropolitan" police force under the law of 1887. The Police Commissioners, I was assured, had consistently done their duty, so had the county attorney. Public opinion appears to be very strong and to tolerate no laxity. The Women's Christian Temperance Union is also full of zeal. The two Police Commissioners last appointed by the Governor were said to be anti-prohibitionists; but they were speedily brought to book at a public meeting of citizens, and expressed

their intention and determination to carry out the law with all rigour.

Such, indeed, is the vigilance of the public, that I am told it would hardly be possible for the officials to slack off the work of enforcement, even if they wished to do so. The result, my informant assures me, is that the law is thoroughly enforced; "joints" are said to be very scarce; druggists do not sell liquor except in conformity with the legal regulations. A few of the latter, who were found guilty of irregularities, have lost their permits. To a limited extent it is admitted that intoxicating liquor is sold in the guise of "sweet cider," "hop tonic," and other pseudo-"temperance" drinks.

The same resident, furthermore, tells me that there are no bawdy-houses or gambling-houses in Topeka, public opinion being directed with equal vigilance and success against gambling and the social evil, neither of which is tolerated or winked at. If a prostitute is found she is punished, and has to leave the place. A gambling-house had been discovered shortly before my visit and was immediately shut up. As an instance of the real sobriety of the place, my attention was drawn to the fact that, during the great excitement of the recent political crisis, when the members of one political party barricaded themselves in the State House against the other, and serious fighting seemed imminent, there was no drunkenness whatever, not a single arrest.

Without attempting wholly to decide between conflicting views as to the degree in which the liquor traffic is still secretly carried on, it is safe to accord to Topeka a quite exceptional, if not unique, position in this respect among other towns of its size throughout the country.

Lawrence is a much smaller place, but here, too, I found no evidence of much illegal trade in drink. Liquor, no doubt, is to some extent obtained in clubs, and there may probably exist here and there a "dive," but the business is secret and fugitive, and it would be difficult for a stranger to get sight of

it. Certainly there seems to be no sign here of anything amounting to a break-down of the law, and general opinion appears to favour it.\*

In both places liquor can easily be got from Kansas City in large and small quantities for private use ; and drinking-parties sometimes are given, one man getting in a supply of whisky, and entertaining his friends.

Apart from questions immediately concerning the enforcement of the law, much has been said and written about the general results of prohibition in Kansas. A detailed examination of all that has been published on this subject on both sides would be beyond the scope of this sketch. A few observations may, however, be offered on the leading points in which it is claimed that the decision taken in 1880 has worked for good.

One point often urged for legal prohibition is its influence as an educator of the young in the direction of a sentiment that total abstinence as a personal habit is right, and that the use of intoxicating liquor in any form or quantity as a beverage is wrong. This view was strongly presented to me by a professor at the Kansas State University, a man whose position in close contact with young men would naturally give weight to his opinion ; a prohibitionist, but, I think, a man on his guard against forming hasty conclusions. He argued that those of the young generation—growing up from boyhood without ever seeing open saloons, knowing that the traffic in strong drink was treated by the laws of their State as a crime, just as much as stealing, having never seen drinking either in their homes or out of doors, and only hearing of it as something socially disreputable, as well as physically and morally injurious—were already fostering a habit of mind in regard to

\* The first person I spoke to in Lawrence was drunk ; it was dark, and I asked him the way to the hotel. But to draw general conclusions from this little incident would be very unfair.

the whole question, which, in the long run, would bring people who manufactured or traded in liquor to be generally regarded as criminals, in the same sense in which thieves and other rogues are so regarded. In support of his view, he assured me that the young men in his own class were, without exception, in sympathy with the existing law ; and that he found the feeling among them in regard to the use of liquor quite different from that which prevailed among young men in Baltimore and the East.

Whatever may be thought of the professor's argument and of his forecast (and without speculating how far the youthful mind, thus educated, might be in danger of disturbance on this question, through subsequent contact with the outer world\*), there can be no denial of his *fact* ; and probably it would hardly be disputed by any unbiassed person that prohibition was having this influence on many of the rising generation. It may, perhaps, be traced in the apparently increased stability of the law (already mentioned) in the public mind outside of party politics. But, upon this question of the educational bearing of prohibition, it must be said that much weight is attached by its opponents to the demoralising effects of a law which treats as a crime what many do not regard as wrong ; which is often scandalously disregarded ; and the transgressors of which, even when their offence is proved in court, in many cases cannot be convicted and punished. Such a law, it is urged, breeds contempt of all law.† As things now are, it certainly is not a very uncommon thing to hear young men discussing the comparative ease or difficulty of obtaining beer and whisky in different parts of the State, and the various methods adopted

\* Nor do I enter upon the ethical question how far the act of selling a glass of beer is analogous to that of stealing a loaf. (See, as to the anomalous character of repressive liquor legislation, Appendix I., p. 409.)

† A well-known social reformer, residing in another State, remarked to me (speaking of liquor laws generally), that nothing had done so much as they had to discredit law in the public mind, and engender a spirit of disregard for its observance.

for evading the law, in a way which supplies arguments to those who hold that the educational influence of prohibition is not universally beneficial.

Attempts have been made to show that the Kansas law has furthered material prosperity and the growth of population. Opponents argue that it has had just the contrary effect, and both parties are equally positive in their statements. Individual cases are mentioned of persons who have left the State on account of prohibition, and of others whom it has brought into the State (especially young men making their start in life, whose parents fear the danger of the saloon).

There can be no doubt that the law has, in some degree, had both an expulsive and an attractive force, but it would be difficult to prove how the balance lies. Kansas has, of course, immensely increased in population and wealth during the past twenty or thirty years, but so have other newly settled States, and, even if it be shown that Kansas has advanced more rapidly than this or that other State which has not banished the saloon, there is a long step from the admission of this fact to the proof that it is the result of prohibition.

The census returns supply, perhaps, the only positive facts yet known on which a general conclusion could be based; and they do not appear to support such a theory. According to them, the population of Kansas increased 173 per cent. from 1870 to 1880, and 43 per cent. from 1880 to 1890 (prohibition commenced in 1881). During the later years not only did the growth suffer a check, but in 1889 and 1890 there was an actual falling off.

1880	...	...	996,096	(U.S. census).
1885	...	...	1,268,530	(State census).
1886	...	...	1,406,738	" "
1887	...	...	1,514,578	" "
1888	...	...	1,518,552	" "
1889	...	...	1,464,914	" "
1890	...	...	1,427,096	(U.S. census).

To attempt from these figures, unsupported by other

evidence, to deduce conclusions for or against prohibition would be absurd; and, indeed, the whole question of the effects of this system upon wealth and population is a very intricate one, requiring far more examination than it has received from those who express themselves with most confidence upon it. It is notorious that Kansas has been and is affected by economic conditions for which it can hardly be suggested that the liquor law is responsible.

But the good effect most freely and frequently claimed for prohibition in Kansas has been the diminution of crime. This result has been publicly claimed for it by men of high official position in the State, whose utterances have been widely circulated. Thus, for example, Governor John A. Martin said: "The abolition of the saloon has enormously diminished crime." Attorney-General Bradford said: "It" (*i.e.* prohibition) "is depopulating our penitentiary, and reducing crime and pauperism to a minimum." In the *Capital Commonwealth*, of Topeka, it was stated: "Drunkenness and crime have diminished 80 per cent. since the saloons were closed in Kansas." In a pamphlet, published in England in 1889 ("Does Prohibition Prohibit?"), it was stated that many of the jails in Kansas were practically empty, "and all show a marked falling off in the number of prisoners."

It may be a fact that prohibition has tended to check crime in this State; but it would not be easy to prove that it has done so to any large extent. Certainly the census returns of the prison population appear to show that the statements quoted above claim too much. According to the United States census, Kansas had more prisoners in its penitentiary and county jails in proportion to its population in 1890 than it had in 1880, viz.:—1890,\* 946 prisoners per million inhabitants; 1880, 893 prisoners per million. Moreover, of all the twelve States in the "Northern Central" group, Kansas

\* The census was taken on the 1st of June.



had in 1890 absolutely the largest ratio of prisoners to population.\*

If the penitentiary and the county jails are taken separately, Kansas with 643 penitentiary prisoners per million inhabitants stands second, but almost equal, to Indiana, which had 646 per million. But, for prisoners in county jails, Kansas shows by far the highest ratio—303 per million (Indiana coming next with 212). These are the figures for 1890. In 1880, Kansas showed better, standing third in the group with a ratio of 203 prisoners in county jails per million; and, as regards penitentiary prisoners, standing second with 690 per million.

The following table shows the daily average number of prisoners confined in the Kansas State Penitentiary, at Lansing, for a number of years, and is based on the figures given in the official biennial reports:—

Daily average number of prisoners during the year				
ending June 30th				
	„	„	1879	... 538
„	„	„	1880	... 647
„	„	„	1885	... 764
„	„	„	1886	... 837
„	„	„	1887	... 934
„	„	„	1888	... 938
„	„	„	1889	... 892
„	„	„	1890	.. 889
„	„	„	1891	... 894
„	„	„	1892	... 902

In the report for 1885—6 the warden complained of the overcrowded state of the penitentiary, and urged the provision of additional accommodation; this was afterwards provided. According to the chaplain's reports, of the whole number of prisoners received between July 1st, 1878, and June 30th, 1880, 377 had used liquor as a beverage, and 228 had not

\* Every one of the twelve States in this group shows in the census a lower ratio of prisoners than the average for the whole United States; and the average for this group is lower than that for any other one of the five groups into which the country is divided. (See the table on pp. 19, 20.)

used it. For the biennial period from 1888 to 1890 the corresponding figures were 524 using liquor, and 224 abstainers.

The sixth biennial report of the State Reform School at Topeka, to which juvenile offenders under sixteen years of age are committed, shows that the number of inmates was, on June 30th, 1890, 186; on June 30th, 1892, 220.

The following figures, showing the number of admissions to the State Reform School in every year since its opening, are supplied to me by the superintendent of the school:—

1881 ... ..	49	1887 ... ..	121
1882 ... ..	50	1888 ... ..	80
1883 .. ...	63	1889 ... ..	63
1884 ... ..	44	1890 ... ..	106
1885 ... ..	27	1891 ... ..	69
1886 ... ..	46	1892 ... ..	117

The Board of Trustees of the State Charitable Institutions, in their report for the last biennial period, stated that the Reform School, as well as other institutions under their control, was "full to overflowing," and they strongly urged that its capacity should be increased.

Much significance has been attached to the fact, publicly stated, that a certain number of county jails were empty. This statement, however, which has been repeatedly brought forward as an argument for prohibition, loses some of its significance when it is remembered that the whole population of Kansas is about 1,500,000, averaging seventeen to the square mile in 1890, distributed in 106 counties; and that the average number of prisoners per county in 1890 was only about four, although, as already shown, the ratio of the jail population was then higher in Kansas than in any other State in the same group. On June 1st, 1890, according to the census return,\* 21 counties in Kansas (one-fifth of the whole number) had no prisoners in their jails; and at the same time in Nebraska 30 county jails were empty (out of a total of 90 counties).

\* Census Bulletin, No. 95, p. 10.

Mr. J. A. Troutman, in an address, delivered on May 15th, 1890, as president of the Kansas State Temperance Union, and afterwards published as a pamphlet, draws a comparison between this State and Nebraska as regards the penitentiary population, from which he deduces inferences favourable to prohibition. His argument is based on the statement that in 1879 Kansas had 917 convicts in the penitentiary, a statement entirely contrary to the official return, which, as has already appeared, shows a daily average of 538 prisoners in that year.

A similar comparison made by him between the same two States as regards boys in reform schools cannot be taken as a basis for any such inference, until the conditions of commitment to these institutions are examined and proved to be similar.

In the same pamphlet a comparison is instituted between Topeka and a number of high-licence and low-licence cities, as regards arrests for crimes; and a table is printed, purporting to show the population, the number of saloons, and the number of arrests in each place during the previous year, and showing a very large excess of arrests in all these places over those in Topeka in proportion to population. It is very probable that the amount of crime in Topeka is exceptionally low; but the figures in the table do not appear to be in every case accurate.

Omaha, for example (the largest town in the high-licence State of Nebraska, which has often been unfavourably compared with Kansas as regards its treatment of the liquor question), is credited with 12,543 arrests, which is declared to be more than 8,000 in excess of the number which it ought to show, the ratio of arrests in Topeka being taken as the basis.

The populations, which the table attributes to these two cities respectively, and on which the above calculation is based, are:—

Topeka	...	...	...	...	...	...	45,000
Omaha	...	...	...	...	...	...	110,000

But, according to the United States census, taken almost

at the very time when this statement was made, the figures are (roundly):—

Topeka	...	...	...	...	...	...	31,000
Omaha	...	...	...	...	...	...	140,000

If the latter figures are substituted for the former, the disparity in the arrests is materially reduced, though it is still great. As regards the 12,500 arrests in Omaha, it must be supposed that this figure is official. It is presumably for the year 1889. The corresponding figure for 1891, which I take from the annual official report, is 7,281—which, if the former number is correct, shows an extraordinary diminution in two years. If the official census population is taken, and the return of arrests for 1891 is substituted, as regards Omaha, for the much higher figure given in the table, on this basis the ratio of arrests in the two towns works out at practically the same figure.\*

The number of persons in Kansas who paid the United States special tax on retail liquor dealers and retail dealers in malt liquors in the last two years was:—†

YEAR ENDING JUNE 30TH.							
1891	...	...	...	...	...	...	3,336
1892	...	...	...	...	...	...	2,500

\* Taking the population of the State at 1,500,000, this would give one retail liquor dealer to 450 inhabitants in the former year, and one to 600 in the latter. I have no information as to the number of persons holding permits to sell liquor for special purposes under the State law, and cannot estimate how many paid the United States tax with the purpose of selling liquor illegally. Tax was paid in the latter year by 432 persons as retail dealers in *malt liquors* only.

\* Since the above paragraph was written, I have received from the office of the Mayor of Omaha the official figures of arrests for all offences in that city, viz.: for 1889, 8,449, and for 1890, 8,113. The number of arrests attributed to Omaha by the Kansas writer is, consequently, about 50 per cent. in excess of the official figure, and (it must be presumed) is to that extent erroneous.

† See the official "Statistical Abstract of the United States" for 1891 (p. 214) and 1892 (p. 218).

## CHAPTER IX.

## IOWA.

## (Prohibition.)

IN Iowa, as a prohibition State, the traffic in intoxicating liquors—except for certain specified purposes, and then only under minute restrictions—is absolutely forbidden. The original prohibitory law, adopted in 1855, exempted cider and native wines, and the exemption was afterwards extended to beer. In subsequent years, though the sale of spirits remained contraband, they were largely sold under cover of the permission to sell the lighter intoxicants. In 1882, a prohibitory amendment to the Constitution, having been carried in the State Legislature, was put to the popular vote and adopted by a large majority. But in consequence of certain irregularities of a technical nature, the amendment, as adopted, was declared by the Supreme Court to be invalid; whereupon the Republicans, who were the party in power, undertook to pass a law giving effect to the popular decision.\* The existing prohibitory law of Iowa was the result. It has, indeed, since undergone some modifications in detail, and in 1890 it was repealed and re-enacted, with modifications relaxing, to some extent, the conditions governing the sale of liquors for certain purposes by druggists; but in its most important features the law remains substantially the same as when it was first enacted in 1884.

The terms of the existing general enactment are :—

“No person shall manufacture for sale, sell, keep for sale, give away, exchange, barter, or dispense any intoxicating liquor,† for any purpose whatever, otherwise than is provided in this Act.

\* A belief exists—I believe, well founded—that the failure of the amendment was not altogether the result of accident.

† Intoxicating liquor means “alcohol, ale, wine, beer, spirituous, vinous, and malt liquors, and all intoxicating liquors whatever,”

Persons holding permits, as herein provided, shall be authorised to sell and dispense intoxicating liquors for pharmaceutical and medical purposes, and alcohol for specified chemical mechanical (*sic*) purposes, and wine for sacramental purposes, and to sell to registered pharmacists and manufacturers of proprietary medicines, for use in compounding medicines, and to permit-holders for use and re-sale by them, for the purposes authorised by this Act, but for no other purposes whatever." This provision, however, "shall not be construed to prevent licensed physicians from dispensing in good faith such liquors as medicine to patients actually sick and under their treatment at the time of such dispensing."

An application for a permit has to be made by sworn petition, stating, among other matters, that the applicant is a registered pharmacist in business as such,\* and is not the keeper of a hotel, eating-house, saloon, or place of public amusement; "that he is not addicted to the use of intoxicating liquors as a beverage, and that he desires a permit to purchase, keep, and sell such liquors for lawful purposes only."† A permit-holder is required to execute a bond in \$1,000 with sureties, by way of security for his observance of the law, and to give an undertaking on oath that he will not furnish liquor except as provided by law; and, especially, that he will not furnish it to any person who is not either known to him personally, or duly identified; nor to any minor, intoxicated person, or habitual drunkard; and that he will make full returns of all sales of liquor made by him.

The application for a permit comes before the District Court of the county, after it has been duly published. The court has to hear any remonstrances or objections, and, before granting the permit, has to satisfy itself that the statements in the petition are true, that the applicant is a proper person to be entrusted with a permit, and that, "considering the population of the locality and the reasonable necessities and convenience of the people, such permit is proper." When several permits are applied for in the same locality, the court may grant or refuse any or all of the applications as will best subserve the public interest.

Until 1890, the permit had to be annually renewed; but it now

\* In a township where no pharmacist obtains a permit, it may be granted to one "discreet person" not a pharmacist.

† Until 1890, the application had to be supported by a petition from one-third of the freehold voters of the place.

continues in force (unless revoked) for such period as may be specified thereon.

On proof of the violation of the law, the court is required to revoke the permit, and, after repeated offences, a pharmacist is liable to forfeit his certificate of registration.

The law surrounds the sale of liquor by pharmacists with regulations of extraordinary minuteness. A permit-holder may sell or deliver liquor only on a written request, "stating the applicant is not a minor and the residence of the signer, for whom and whose use the liquor is required, the amount and kind required, the actual purpose for which the request is made and for what use desired, and his or her true name and residence, and, where numbered, by street and number, if in a city, and that neither the applicant nor the person for whose use requested habitually uses intoxicating liquors as a beverage, and the request shall be signed by the applicant by his own true name and signature, and attested by the permit-holder who receives and fills the request by his own true name and signature in his own handwriting. But the request shall be refused, notwithstanding the statement made, unless the permit-holder has reason to believe said statement to be true, and in no case (*sic*) unless the permit-holder filling it personally knows the person applying--that he is not a minor, that he is not intoxicated, and that he is not in the habit of using intoxicating liquors as a beverage; or, if the applicant is not so personally known to the permit-holder, before filling the said order, or delivering the liquor, he shall require identification, and the statement of a reliable and trustworthy person, of good character and habits, known personally to him, that the applicant is not a minor, and is not in the habit of using intoxicating liquors as a beverage, and is worthy of credit as to the truthfulness of the statements in the application, and this statement shall be signed by the witness in his own true name and handwriting, stating his residence correctly."

The permit-holder is to make a return every two months to the county auditor of all such requests, together with a sworn statement that the return is complete and that no liquor has been otherwise sold or dispensed. He is also required to record all sales in a book open to inspection.

Penalties are provided for false statements made for the purpose of obtaining liquor. The following penalties are also enacted:—

Selling to a minor (except on the written order of his parent,

guardian, or family physician), or to an intoxicated person, or to a drunkard—fine \$100.

Selling without a permit, or keeping liquor with intent to sell illegally—first offence, fine \$50 to \$100; subsequent offence, fine \$300 to \$500 and imprisonment not exceeding six months.

Premises where liquor is sold or kept for sale against the law are declared a nuisance, which may be abated and an injunction obtained; and anyone convicted of keeping such a nuisance is to be fined from \$300 to \$1,000. Violation of an injunction is punishable by imprisonment up to six months, and if repeated, a year.

The proceeds of fines are given to the school fund.

Payment of the United States liquor tax is evidence of a breach of the State law.

A justice of the peace, on sworn information, may issue a warrant for search and seizure. Liquor seized may be declared by judgment of the court to be forfeited, and is then to be destroyed.

Any person found in a state of intoxication is to be arrested, and, on conviction, is to be fined \$10 or imprisoned for thirty days. But the punishment may be wholly or partly remitted, upon the prisoner stating on oath when, where, and from whom he received the liquor.

No money can be recovered on any contract for liquor sold in violation of the law, and money actually paid for such liquor may be recovered back.

Peace officers are bound to give information of violation of the law, on pain of forfeiting their office and being fined from \$10 to \$50.

By a provision, since declared by the United States Supreme Court to be invalid as an attempt to regulate inter-State commerce, any common carrier or other person who transports liquor within the State for any person without a certificate from the county auditor, stating that the consignee is authorised to sell it, is declared liable to a fine of \$100; and all packages of liquor transported are required to be plainly and correctly labelled.

Every person who is directly or indirectly concerned in keeping a club-room or other place in which liquor is received or kept for the purpose of use, gift, barter, or sale, or for distribution or division among the members of any club or association by any means whatever, and every person so using, etc., is to be fined from \$100 to \$500 or imprisoned from one to six months.

Courts and jurors are required to construe the law so as to prevent



evasion, and to cover the act of giving as well as selling by unauthorised persons.

Anyone who, by illegal manufacture or sale of liquor, causes the intoxication of any person is required to compensate any person who takes charge of him.

Any wife, child, parent, guardian, employer, or other person, injured in person, property, or means of support by any intoxicated person, or in consequence of his intoxication, habitual or otherwise, has a right of action for damages against the person who by selling liquor caused the intoxication.

The enforcement of the law here, as elsewhere, depends on the direction and strength of local popular sentiment. In the small towns and rural townships, especially in the central portions of the State, there does not appear to be, as a general rule, any widespread resistance to the law. How far this fact is due to the force of the law, and how far to the natural absence of any considerable demand for liquor in rural districts, is a matter on which opinions are divided; but as regards the fact itself, there is practical unanimity among both the friends and the opponents of prohibition.\* A traveller might pass through large portions of the State without finding any opportunity to satisfy his thirst for stimulants. The remarks which follow are directed to a consideration of the facts about prohibition in the larger towns.†

\* A clergyman, who certainly does not believe in general prohibition as a solution of the drink question, mentioned to me a small town with a population of about 3,300, which was personally known to him, and in which prohibition had, in his opinion, worked great good. It had closed the saloons, and the local sentiment had warranted its efficient enforcement. It appeared, in short, to be just such a place as would make use of local option.

† In 1885 a report was made by Senator Sutton on the working of prohibition in Iowa, which may be of some interest, though it refers to a time now somewhat remote. An article on the report appeared in the *Christian Union* (New York) on December 24th, 1885. The report apparently embodies replies to questions received from a number of places and from persons of different opinions and callings. The general result is said to show the existence of 1,837 open saloons (an increase of 31 since

The State of Iowa extends over 55,475 square miles,\* and contained, according to the census of 1890, a population of 1,911,896, an average of 34 inhabitants to the square mile. It is a farming country, containing no very large cities; the chief city, Des Moines, has about 50,000 inhabitants. There are ten towns with a population exceeding 10,000. Only 20 per cent. of the population of the State live in towns or districts of more than 3,000 inhabitants.

Iowa is an older State than some of the other central States, and more conservative; "populist" views have made comparatively little headway in it. It has a good many Germans and Irish, some Scandinavians in the north, but not nearly so many of this race as are found in Wisconsin and Minnesota. The State is bounded along its eastern and western sides by the Mississippi and Missouri rivers, on one or other of which are situated seven out of its ten principal towns, in immediate proximity to States subject to a licence law. These riverside towns are those in which the prohibitory law has been most persistently and openly violated, a circumstance which has often been attributed to their proximity to places where drinking is lawful, on the principle that evil communications corrupt good manners. That such proximity may have had some effect in stimulating the demand for liquor among

prohibition); open saloons were reported in 67 counties; and the liquor business was taxed or licensed by the municipal authorities in 25 towns. In 13 counties a diminution of saloons and of drunkenness was reported; in 21 no improvement or a deterioration. Six cities of the second class, 16 towns of between 1,000 and 2,000 inhabitants, and 38 smaller towns had previously adopted prohibition under the local option law; in these places the new law was said to be a benefit. Prohibition "has done great good wherever the field was prepared for it, and where the people wanted it, and would elect public officers to enforce it, and has restricted the traffic in places like Iowa City and Muscatine, even where only a minority favour it, but where that minority is determined and aggressive." Elsewhere (the report went on) prohibition only does harm, and the best relief is local option and high licence.

\* Slightly less than England and Wales.

the inhabitants of the riverside towns on the Iowa side seems likely; but, on the other hand, it also provided them with facilities (by merely crossing the river) for satisfying that demand without breaking the laws of their State. The success of prohibition in Cambridge (Massachusetts) is thought by many to be largely due to its proximity to Boston, which supplies the Cambridge demand. The confinement of saloons within a particular quarter of Minneapolis is not found to render the law prohibiting them in the other quarters inoperative. Following these analogies it might have been supposed that the fact of Council Bluffs (for example) being connected by a bridge over the Missouri with Omaha, where saloons are licensed, would have rendered the enforcement of prohibition not more difficult, but easier, in the former place.

In the riverside towns the law at the present time is generally and openly violated, as is fully admitted by prohibitionists who are at all familiar with facts. At Davenport there is no sort of concealment. At the principal hotel the "lunch-room" opens out of the billiard-room. It consists of an ordinary bar without any screen or curtain. It is the same with the saloons in the town. Boards announcing lager beer and other liquors are hung out on the street front. The bars are clearly seen from the street. Liquors of all kinds are set out in bottles in the front windows. At the time when I visited this town handbills were placed about in the hotel bearing the following announcement:—"Grand Masquerade Ball given by the Saloon-keepers and Bar-tenders of Davenport, at Wiggers' Hall, on Saturday evening, Jan. 14th, 1893. Music by Otto's Orchestra. A good time guaranteed to all who participate. Tickets, 50 cents. Come one! Come all!! Prizes awarded!" Under licence, liquor was sold in about fifty places in Davenport; the number of such places now approaches three hundred. There is a "beverage licence" issued under a city ordinance, which practically amounts to a regulation to some extent of the liquor business. In Scott

County, which includes Davenport, the prohibitory law has never been strictly enforced. A large proportion of the population is German, in general a steady, law-abiding community, but steadily opposed to prohibition. There was at one time a project of establishing a State police organisation, independent of the localities, for enforcing the liquor law; a warning came from Davenport that to attempt to carry out the scheme there would be to risk the lives of the men sent to enforce the law. On the adoption of prohibition the German community, which had been solidly Republican, went over to the Democrats. Upon the political aspect of prohibition in this State more remains to be said. In Davenport it is said that more drinking goes on now than was customary before 1884; but still there is not a great amount of drunkenness, and there is more prosperity and less crime in Scott County than in Polk County, which contains Des Moines, where the law has not been so openly violated.\*

The ineffectiveness of prohibition seems to have been more notorious in Davenport than in the other towns on the eastern border of the State; but I am assured that at Burlington and Dubuque a similar state of affairs prevails.†

On the western side are two considerable towns, Sioux City and Council Bluffs, in both of which the trade in liquor is carried on quite openly, and is recognised, in the face of the State law, by the local authorities, and regulated by certain municipal rules. It is even made subject to a kind of licensing system. Sioux City has a population of about 38,000, and ranks as the second city in the State. By a municipal

\* Number of convictions for crime :—Polk County (population, 65,400), 1890, 83; 1891, 98. Scott County (population, 43,100), 1890, 18; 1891, 48.

† Muscatine (11,500), a riverside town between Davenport and Burlington, was in May, 1893, the scene of a serious outrage, when the residences of three citizens, who had been taking conspicuous part in a campaign against the saloons in that town, were partially destroyed by dynamite.

ordinance the liquor dealers are compelled to make a monthly payment to the city. This payment, being exacted as a fine for violation of the law, is not in form a licence fee, but in effect operates as such, for, the payment having been made, no further proceedings are taken to vindicate the law. The object of the arrangement is twofold : to secure a control over the trade, which under an inoperative prohibitory law is wanting ; and to raise a revenue for municipal purposes. In Iowa the duty of enforcing the State law rests mainly with the sheriff of the county and his officers, and fines are paid to the county treasury. Fines levied for breach of a municipal ordinance go to the municipality. Therefore, by passing an ordinance ostensibly for the purpose of enforcing the State law, a municipality is enabled to institute proceedings thereunder, and appropriate to itself the fines. The arrangement thus introduced in Sioux City is obviously in fact, though not in name, a return to a licensing system in defiance of the prohibitory law of the State.

Council Bluffs (21,500) lies on the east side of the Missouri, opposite Omaha (Nebraska) ; it is an important railway centre. The municipal limits extend to the river, but the town itself lies some distance back under the bluffs, between which and the river stretches a flat alluvial valley two or three miles wide. The saloons here are quite open. I counted twenty-two in about a quarter of a mile along the main street. They number about seventy altogether in the town. They are recognised by the authorities, and each pays a monthly fine, practically amounting to a licence fee, of \$52.50, of which \$2.50 go to the police, and the remainder to the town for general purposes.\* The following is the routine adopted :—Printed forms of complaint are filled up and sworn to in the Municipal Court, in which A B is charged with keeping a disorderly house in contravention of the city ordinance ; liquor is not mentioned.

\* In the published municipal accounts these payments are included in the item of "city crime."

The offender is summoned, and the sum named is taken as bail for his appearance on the appointed day. When the day comes he does not appear, the bail is forfeited, and the money is paid over and appropriated as already stated. The proceedings are then dropped until the next month, when a new information is sworn, and the same course is taken again; and so on every month. Prohibition has never been successfully enforced in this town. There have been times when the prohibitionists have made a rally and undertaken to close the saloons, but their efforts are said to have always resulted in an increase of drinking, and a great increase in the number of secret grog-shops. I am assured that since this quasi-licensing system has been in operation (about two years) it has worked a very great improvement in the state of the town. I inquired whether, under the existing system, a badly-conducted house would be allowed to continue doing business. The answer was that it would be closed; the police would tell the owner that he must clear out, and would not be satisfied to let him go on paying his fine like the rest. These monthly fines amount in the year in each case to \$630, a fairly high-licence fee, and they have had the effect of closing many of the smaller dram-shops which had previously been running with little or no restriction.

The following statistics are taken from the published municipal reports :—

Council Bluffs (population, census of 1890, 21,474.)	Year ending March 1st, -	
	1889.	1892.
Total number of arrests... ..	1,815	1,482
Arrests for drunkenness (either alone or combined with some other offence) ... ..	736	696
Arrests for violation of liquor law ... ..	7	6

The arrests for drunkenness in Omaha during 1891 numbered 1,667—a very much smaller proportion to the population than the corresponding arrests in Council Bluffs.

If the arrests in Omaha were brought up to the same ratio as those in the neighbouring city, they would number over 4,500, or not far short of three times the actual total. In Council Bluffs, under prohibition, the arrests for drunkenness are one to thirty-one of the population ; in Omaha, under high-licence, one to eighty-four.

Before coming to Iowa I had been told a story to the effect that on Sundays it was a common thing for people to come over the river from Omaha, where the licence law demanded, and to some extent compelled, Sunday closing, for the purpose of obtaining liquor in Council Bluffs, where no such restriction was observed. I made some inquiries on the spot as to the truth of this statement, and received repeated confirmation of it. Small beer-shops were even set up just across the river for the special purpose of doing a Sunday trade with people from Omaha. The plan of the monthly fines, however, seems to have put a stop to this Sunday emigration. The state of Council Bluffs on Sundays had been much improved, and there had recently been few complaints of disturbances on that day, which used to be of not infrequent occurrence.

A greater measure of efficiency is justly claimed for prohibition in the interior of the State than that which it has achieved among the riverside towns. But even in the interior, it can hardly be said to be attended with any marked success in the larger centres of population. I visited two out of the three cities in the interior whose population exceeds 10,000. In Cedar Rapids, the business is carried on much less openly than in Davenport or Council Bluffs. The saloons do not publicly proclaim themselves on the street-front ; but a prohibitionist of the place, who had been an earnest worker for the enforcement of the law, told me that there were a good many of them, and that they carried on business with little or no interference. There are "restaurants," "lunch-rooms," "oyster-bars," "eating-houses," etc., at intervals. When I went into one of these and

asked for a glass of whisky, I was referred to another house two or three doors off, where I found a screen running across, which divided the premises into a front and back shop. The front part was a small lunch-bar. Through the swing-door of the screen was an ordinary saloon drinking-bar with the usual stock of whisky bottles, etc. Except that the bar was in the back part of the shop behind the screen, and that there was no reference to liquor in the announcements fronting the street, no secrecy was observed. There is no city ordinance in Cedar Rapids taxing the trade, such as exists in Sioux City and Council Bluffs. There was, at one time, a talk of passing such an ordinance; but the prevailing opinion was against it. I was informed that the law was at first well enforced; but only for a short time. A gentleman, having the management of one of the largest business undertakings here, told me that, in his opinion, the law when enforced had been beneficial; he mentioned, particularly, the case of the coopers employed in his business, who are piece-workers, and who, he said, were found to take "off-days" less frequently when liquor was difficult to obtain.

The law has been greatly discredited in Cedar Rapids by the manœuvres of "shysters" (low attorneys), who have used it for the purpose of levying blackmail. I was told by a prominent prohibitionist that these individuals constitute also a great obstacle to the efficient prosecution of legal proceedings by commencing collusive prosecutions against liquor-sellers. Such prosecutions are neither pressed on to conviction nor withdrawn; and the result is that, when genuine proceedings are undertaken against the same offender, they are delayed and hung up because a previous prosecution is pending.

The same gentleman informed me that the city and county officials had never, or very rarely, shown a disposition to enforce the law thoroughly. The city authorities (even if otherwise willing to act with vigour) would be discouraged by the fact that the expenses of the prosecution would fall upon the city, while



the county would get the fines. The election of the county sheriff—whose duty it is to undertake the matter—is apt to turn, as in Maine, on the issue of the strict or slack administration of the prohibitory law; and, as a matter of fact, it is a rare thing for this officer to display much zeal in support of it. In Cedar Rapids, as well as in other places, when vigorous action has been taken, it has been by the exertion and at the expense of private individuals. A zealous prohibitionist, who had himself spent much time, money, and labour on this work, and had realised the impossibility of enforcing a law of this kind by private action unsupported by official goodwill, told me that he had been brought to the conclusion that he would rather now spend \$100 in prosecuting an officer for not doing his duty than a single dollar in proceeding against a saloon-keeper for breaking the law.

In Des Moines, the official capital and chief city of the State, and in Polk County, which comprises it, the conditions are said to be more favourable for making prohibition effective than in any other part of the State, and Des Moines has generally been regarded and held forth as the town where the law has been most firmly and successfully enforced. This probably is true; but it cannot be denied that the enforcement is now very imperfect.\* There are no open saloons, proclaiming themselves as such upon the street-front; but dramshops are not lacking, liquor is readily sold by druggists, and prohibitionists themselves fully admit that people who want drink can satisfy themselves without difficulty. Public opinion does not call for any active measures—even in Des Moines—for suppressing the trade beyond a certain point. As long as things go on quietly and the law is not violated with too much openness, the authorities are content; nor are steps taken to search for law-breaking. Spasmodic attempts have been made from time

\* The statement has been published that, whereas Des Moines gave a majority of 1,200 in favour of the prohibitory amendment in 1882, in 1887 it gave a majority of 200 for the Democratic State ticket (anti-prohibition).

to time to put prohibition in full operation. During such times domiciliary visits have been made to private houses ; but such attempts led to ill-feeling, and ended in failure. The plan of establishing a State police to carry out the liquor law independently of the local authorities has been proposed, but never adopted. Prosecutions have entailed an expense, and have sometimes been attended by a want of success which has given considerable dissatisfaction and increased the feeling that prohibition has been a failure. Evidence often is difficult to obtain. Questioned whether he was served with whisky, a witness will say that he asked for tea, and will not swear that what he got was whisky. Difficulties also arise with juries, and even with the officers of the courts.\*

In Des Moines liquor is usually sold by druggists. A summary has already been given of the procedure under which druggists can obtain permits for selling liquor for medicinal and other specified purposes, and of the elaborate regulations under which they are required to carry on this business. The practice, however, in Des Moines varies widely from the law. Druggists will sometimes inquire for what purpose the whisky is wanted, and take the name and address of the purchaser ; but, usually, this form is dispensed with. Those of the higher class will generally sell only in bottles or flasks ; some, however, will supply their customers "by the drink." The leading hotel has a drug store attached to it, having a door opening into the

\* The following case occurred many years ago ; but it will serve as an illustration of the sort of irregularities which are committed and which lead to abortive prosecutions. A prominent lawyer, who at one time was acting as judge in the Municipal Court, told me that on the first occasion when he sat on the bench, the second case was a liquor case. The sheriff called the jurors. The judge was looking over the docket, and, as the sheriff called a name, his eye fell on the same name as that of the defendant in the next following case on the list, which was also a liquor case. The man was a saloon-keeper. The sheriff, being called up, affected surprise, and said it was a mistake. The judge reprimanded him, and dismissed the man from the jury.

street and another opening into the lobby of the hotel. If a stranger inquires the way to the bar or asks where he can obtain a glass of whisky, he is told that Iowa is a prohibition State; but the open door of the drug store is readily pointed out to him, where he is informed that he can purchase a bottle to take up to his room. To judge from the display of flasks and bottles of various shapes and sizes in this store, the sale of intoxicating liquor appears to form an important part of the business carried on in it. No questions are asked, no circumlocutions or subterfuges are resorted to; the transaction is begun and completed with perfect frankness and simplicity on both sides of the counter; nor is any respect shown for the elaborate requirements of the law for recording the sale.\* Liquor can be ordered, and is served, in the public dining-room of the hotel without question—the only peculiarity being that the card on which the visitor writes his order is headed “Pharmacy,” instead of “Wine Order.”

Towards the end of 1892, the City Council of Des Moines passed an ordinance similar to that which has already been referred to in connection with Sioux City and Council Bluffs; but in January, 1893, the mayor, in the exercise of the power given him by law, vetoed it. The supporters of the ordinance denied that it was intended to have the effect of a licensing measure; and no doubt the terms of the ordinance did not necessarily involve such an inference. It was, however, urged by the city attorney, in moving its adoption, that it would bring revenue to the city; and the general opinion (as well as that of the mayor) certainly seemed to be that the regulation, and not the suppression, of the saloons was aimed at. With the experience of a similar ordinance in other places, this conclusion was not unnatural.

Returns are published by the State authorities, showing statistics of prosecutions for crimes in the several counties. It

\* The frequent passing to and fro between the hotel and the drug store suggests a suspicion that business is not invariably carried on by the bottle.

is, however, impossible to state precisely the number of liquor prosecutions, because a large number are entered simply as "nuisances," and one cannot tell what proportion of them are liquor cases ; probably a great majority are such. There would seem to have been, probably, between 300 and 350 liquor cases in 1890, out of rather less than 1,200 convictions—say, 28 per cent.

The position of prohibition in politics is an important element in considering the prospect of the continuance of this principle in Iowa as a general legislative enactment. The Republicans adopted prohibition as part of their "platform" after it had been carried by a large majority (nearly 30,000) on the popular vote in 1882. This action sent a certain section of their party, including many Germans in the riverside counties, who, ever since the war, had attached themselves to the Republicans, over to the other side. The Democrats took up an attitude of opposition to the prohibitory law, though a section of them were favourable to it ; and it became one of the direct issues between the parties. In process of time, the enthusiasm which carried it ceased to run at high pressure ; the energy of the movement subsided. At the same time, some of the Republicans who continued to vote for the maintenance of the law did so only out of loyalty to their party, and personally were opposed to it. Parties in this State have, of late years, been pretty evenly balanced ; but the Republicans have generally been in a majority. The operation of the causes above mentioned, however, gradually weakened the party, until in the autumn of 1889 it was defeated in the election of Governor ; and a Democratic Governor was again elected in 1891—the retention or repeal of the prohibitory law being an issue on both occasions. During these last few years attempts have been made in both Houses of the State Legislature to repeal the law—attempts which have come very near to success, but have never quite attained it. High-Licence Bills were introduced in 1890, and defeated on a party vote. In the same year, a proposal for a prohibitory amendment to the Constitution was

also thrown out, and druggists were relieved from some of the restrictions under which they were allowed to dispense liquors. In 1892, a Licensing Bill obtained a majority in the Senate of 25 to 23; but 26 votes were necessary to carry it. A Local Option Bill passed the Senate by 27 to 22, but was defeated in the House—46 to 52. A Bill to resubmit the question of constitutional prohibition passed the House by 52 to 46.\*

In the autumn of 1893 will come the election of a new Legislature, which will meet in January, 1894. At this election one of two things is likely to happen, either of which will in all probability be fatal to the existing liquor law. If it is again made an issue between the parties, the Republicans will most likely suffer defeat, and the avowed opponents of prohibition will then be in the majority. But it is by no means certain that the Republicans will not drop the issue out of their platform. They have been twice defeated on it in the election for Governor; and many of their party are against it. In the recent Presidential election (1892), when prohibition disappeared from the programme and was ignored as an issue, the Republicans had a good majority in Iowa. They have, therefore, strong motives for dropping it out of the list of party issues in State politics; especially as the wave of prohibitory enthusiasm has to a great extent subsided, and a pretty

\* It may seem surprising that, if the Democrats were able to elect their candidate for Governor at two successive elections, they could not get a majority in the Legislature, and secure repeal. The operation of the "gerrymander"—which the Republicans, as the dominant party, have been able to work to their own advantage—seems to provide an explanation of the anomaly. They have been enabled to foresee large increases of population in the central portions of the State, while in the riverside—the "slough-water"—counties it is revealed to them that the increase will be less marked. In the redistribution of seats, they endeavour to adjust matters to this prospective arrangement of the population. It is needless to say that the centre of the State is the stronghold of the prohibitionist and Republican elements, while the edges, east and west, are where the Democrats flourish.

widespread feeling has arisen that prohibition has not been a success. If the party decides that it is the best policy to drop the question as an issue at the election, it seems likely that the Republicans will be returned with a majority; but those members of the party who are opposed to prohibition, and have hitherto supported it as an act of party allegiance, will then be free to vote according to their inclinations. I found a prevalent expectation among prohibitionists and others that prohibition would not survive the next Legislature.\*

The political attitude of earnest prohibitionists has for some years been one of growing dissatisfaction with the Republican party, to whose lukewarm support or secret hostility they attribute the imperfect enforcement of the law. Many who had hitherto been good Republicans have been dropping off and joining the ranks of the third party, a fact which explains the increase in the numerical strength of the latter party in Iowa.† There seems no reason to believe that this increase marks any growth of

\* Prohibitionists, however, expect to see repeal followed by a sweeping reaction to prohibition.

The following extract from an Iowa paper, published after the above paragraph in the text was written, bears upon the question discussed in it:—"Sioux City, Ia., Jan. 16.—(Special Telegram to *The Bee*.)—The appearance of an editorial in the *Sioux City Journal*, advocating a repeal of the prohibitory law in this State, has created a sensation of no mean size in Iowa. Congressman Perkins, editor of the *Journal*, was chairman of the committee on platform and resolutions at Cedar Rapids a year ago, and drew the Republican platform, which was for a continuance of prohibition. The *Journal* has persistently advocated prohibition in the face of flagrant violation of the law in this city and portion of the State, and it was the last paper that it was supposed would come out for repeal. The press of the State is taking it up, and politicians declare that the bold declaration of Mr. Perkins has severed the Republican party from prohibition, and that it will result in the adoption of a high-licence plank in its platform by the Republican State Convention next fall."

† The votes polled in this State for the prohibitionist candidate at the last three Presidential elections were as follows:—1,472 in 1884; 3,550 in 1888; and 6,340 in 1892.

prohibition sentiment in the State ; it indicates a transfer of prohibitionists from the Republican ranks to those of the third party.

Another aspect of the question remains to be noticed. Neither the Democrats nor the liquor-sellers, although they are respectively the political and the natural enemies of prohibition, are altogether desirous of seeing it repealed. It has, in fact, been the best political ally of the Democratic party. It has been their "bugaboo" to scare away votes from the Republicans. Prohibition has made Democrats of the Germans, and has given the Governorship to the Democrats. Where prohibition is not made an issue, the State is still strongly Republican ; if it were repealed and out of the way, the latter party might again have a commanding majority. The party really interested in repealing the law is that which ostensibly supports it, and not that which is pledged to its rejection.\* So far as the liquor-sellers are concerned, many of them are not dissatisfied with things as they are. They do a fairly good business. Even in those places where a monthly fine of \$50 is levied, it is not more, and may be less, than they would probably be called on to pay, if prohibition were repealed. They are exempt from the formalities and difficulties and chances of refusal to which they would be exposed in making their applications under a licence law ; nor are they subject to such close inspection or so many restrictions in conducting their business ; and they do not run the risk of forfeiture of their licence-money and their bond for breaking the law.

\* It will be interesting to see whether in the coming year the Democrats will endeavour, and, if so, how and with what success, to stave off repeal, should the course of events give them the power to carry it. The Republicans could hardly themselves propose repeal. Possibly recourse may be had to a reference to the popular vote on the question of an amendment to the Constitution, but such a vote could only be taken after the amendment had been carried by two successive Legislatures, a course which would involve a long postponement of the question.

A few words may be said upon the general results of prohibition in Iowa, apart from questions more immediately relating to the law and its enforcement. Has it increased or decreased drinking? This is a question on which opinions differ, and will continue to differ, according to individual experience or predilection. Prohibitionists, who recognise and acknowledge that the law has failed to fulfil their hopes, claim that one great benefit—the suppression of the open saloon—is gained by prohibition, and can be secured by no other system. The great evil, they say, is the temptation to young men to acquire the habit of meeting in public places and drinking together, of treating and being treated; this is what makes young men take to drink. If the saloons and hotel bars are closed, the habit is not formed; they are not attracted to shady places nor inclined to resort to subterfuges in order to obtain liquor. From this point of view, the fact that people, who go about looking for a dramshop or “hole-in-the-wall,” can find it does not prove that prohibition is a failure. Without reference, however, to the riverside towns, it would hardly seem that even in Des Moines the liquor trade has been driven into the degree of secrecy contemplated by those prohibitionists who attach special importance to the removal of temptations from the young. On the other hand, the belief is prevalent that the growth of liquor-selling by druggists, and in particular of the “drug store saloon,” is a special and serious evil which has sprung up in the wake of prohibition.\*

It undoubtedly is the opinion of many persons who are genuinely interested in the cause of temperance that the prohibitory law has led to an actual increase of drinking, owing to the greater home consumption, and a greater demand for liquor, especially strong spirits, by the bottle. A well-known

\* A particular instance of this evil related to me was the case of a druggist doing business near the college at Davenport, who, shortly after the introduction of prohibition, took to selling whisky, and supplying it to the college boys. He was detected and prosecuted.



resident of Iowa, holding a high official position, and a "temperance man," told me that, while travelling in the State shortly after the introduction of prohibition, he became acquainted with a fellow-traveller, who proved to be a Bourbon whisky distiller on a large scale in Kentucky. Asked what brought him into a prohibition State, this gentleman replied that his business in this State was brisker than it had been before the prohibitory law came into effect.\* The same informant, whose duties oblige him to travel much about the State, also assured me that the increase of drinking in the trains was a fact within his own personal observation. Prohibition has closed the bars at railway stations; and many travellers, especially among the "drummers" (commercial travellers), are in the habit of forestalling this want by providing themselves with a bottle of whisky—a habit which is apt to lead to a too rapid consumption of the contents of the bottle during the journey. In the dining cars, which are attached to some of the express trains, no liquor is sold during the passage of the train through a prohibitory State, though this rule is occasionally evaded under the pretence that the bottle of wine or beer which the traveller desires is already his property; no charge is made for it, but the debt is either included in the price of the meal or else discharged in the form of a gratuity to the waiter.

In the course of my visit to Iowa a matter was brought to my attention, of the significance of which, in relation to the liquor question, I do not pretend to be able to judge, though it has been alleged to indicate one of the effects of prohibition. There are said to be several opium dens in Des Moines. The fact (if it be authentic) was brought to public attention in an account published in one of the local newspapers, and purporting to be a record of the experience of a special

\* It should be remembered that the sale of *spirits* has long been prohibited in Iowa. By the "prohibitory law" is of course meant the law of 1884, which enacted prohibition for all kinds of liquor.

reporter commissioned to make a personal investigation of the matter.\* There are very few (about twenty-five) Chinese in the town. Some of the dens are said to be run by Americans; and, notwithstanding the exposure, seven of them are said to be still running. There is no law in the State to stop them. I heard also of the use of opium in another place, a small town in the northern part of the State, where prohibition was so effectually enforced that, when the bishop of the diocese visited it, an intended celebration of the Sacrament had to be abandoned because no wine could be obtained. My informant, whose testimony is unimpeachable, was told by a physician practising here that the use of opium in this place was a positive curse; he had twenty or thirty cases on his hands of persons suffering from the habit, both men and women.†

It has been alleged by some that prohibition has been an obstacle to the material welfare and progress of the State, a supposition which is altogether rejected and ridiculed by others. This is another question on which the partisans on one side and the other must be content to differ. The proposition seems to be incapable of proof or disproof. A resident in Des Moines expressed to me his opinion that repeal would in that city be followed by an immediate spurt in the building and other

\* *Des Moines News*, March 8th, 1892.—The reporter describes his experiences, how he went into three or four of these dens; and he mentions others which he did not visit. The people whom he found there seem to have been mostly Americans; in one case a husband and wife. The reporter finally took to his heels with an opium pipe as a trophy, and fled up the street with a Chinaman in pursuit. He took refuge in the police station. The pipe was afterwards displayed in the office window of the *News*, and the reporter was threatened with prosecution for stealing it.

† Mr. G. Thomann, in a pamphlet published in 1889, on the Proceedings at the Second International Temperance Congress, held in 1887 at Zurich, stated that, according to the Iowa Health Board, there were more than 10,000 persons in that State who used opium; but I have not been able to verify the statement by reference to any official report.

trades, but he doubted whether after a year it would make much difference.\*

A gentleman residing in Omaha told me that he knew several persons who had come over to that place from Council Bluffs on account of the prohibitory law; and I was informed, on what should be good authority, that a number of wholesale houses (I think ten was the number mentioned) had quitted Council Bluffs and gone to Omaha for the same reason. These were the only definite statements which I heard bearing on this point. My informants in both cases attributed the migration not to any desire for a better supply of liquor, but to disgust at the law, and the evasions and skulking which it led to, and a sense of its interference with personal liberty.

The failure or imperfect success of prohibition in Iowa is generally ascribed by prohibitionists to the default of the local officials who, they maintain, could make it effective, if they displayed the requisite zeal in the discharge of their duties. One prohibitionist, who as a private citizen had taken a leading part in an attempt to put down the dramshops in the town in which he lived, expressed to me his confidence that if he were mayor he would soon put a stop to the trade in that place, and that the general sentiment was strong enough in favour of the law to enable it to be successfully and continuously enforced. Another, while equally sure that the authorities could and ought to enforce the law, admitted that to do so would require great and continued efforts; his experience has been that for a time sentiment runs very high, and great efforts are made; then the pressure runs down. In answer to the suggestion that the authorities were not likely

\* Some years ago there was a stagnation of business in Des Moines, and the growth of the town seemed to stop; but latterly building has gone on more rapidly, and the city is growing in importance as the residential capital of the State. The municipal limits are very extensive; a resident told me that he owned a farm of one hundred acres, agricultural land, within the city boundary.

to make these efforts, except under pressure of an active public opinion, he agreed that private citizens, men of business and others, cannot be brought, except occasionally and for limited periods, to push forward urgently and against bitter opposition measures of social reform. They say, naturally enough, that it is the duty of the officials who are paid for that express purpose to see that the laws are enforced. Private citizens have their own affairs to attend to, and cannot be expected to perform the duties of the paid ministers of the law as well.

## CHAPTER X.

## RHODE ISLAND.

## (Ex-Prohibition.)

RHODE ISLAND has made three trials of prohibition, and three times has given it up. The first prohibitory law was passed in 1852 and continued till 1863, when it was succeeded by a licensing measure. The second prohibitory law had a short life—from 1874 to 1875—when a licensing and local option law took its place. In 1886, a prohibitory amendment to the State Constitution was submitted to the people, and adopted by 15,113 to 9,230 votes—a majority of 5,883, or 507 in excess of the necessary three-fifths. In June, 1889, the question was re-submitted, when there voted for prohibition, 9,956 ; against, 28,315—majority against, 18,359.

The passing of the prohibitory amendment in 1886 came on many people as a surprise. Great activity was exerted by the prohibitionists ; women urged their husbands and brothers to vote for it ; many voted for it who were not really prohibitionists, and who never expected that it would be carried. In Providence, it seems almost from the first to have been systematically violated ; and in the State generally it cannot be said to have been enforced with much success. It is claimed for it that, especially during the earlier portion of the prohibitory period, drinking was diminished ; and, undoubtedly, arrests for drunkenness and for crime in general showed a marked falling-off, as may be seen from the following figures which relate to Providence :—

## SIX MONTHS, JULY—DECEMBER.

	1885 (Licence).	1886 (Prohibition).
Total arrests ... ..	3,398	2,262
Common drunkards ... ..	60	23
Drunkenness ... ..	2,427	1,423

In Newport, during the same periods, arrests for drunkenness and revelling decreased from 257 to 171 ; in Woonsocket, from 377 to 300 ; in Lincoln, from 97 to 60. In Pawtucket, on the other hand, the number rose from 181 to 234—a fact which the chief of the State police, in his published report, attributed to increased diligence on the part of the police.

There seems to be no question that, at first, the result of the vote was to paralyse the liquor trade. The 444 places previously licensed for the sale of liquor in Providence ceased business when the new law went into operation (July, 1886) ; or did but little business, and that secretly. In a few weeks, however, some of them recommenced operations as “clubs,” supplying their customers with private keys of admission, and it is said that by October many of the clubs were in full swing.

Six months later, the precaution of the use of private keys was no longer thought necessary, and thenceforward the saloons were run practically open and unchecked. Occasionally, indeed, a raid would be undertaken, and the keys would again come into use ; but this return to secrecy seldom, it is said, continued for more than a fortnight.

In December, 1886, it was said that liquor was being sold in 288 places in Providence, including 42 tenement houses, but not including a large number of club-rooms ; while 104 of the old licensed saloons had been given up by their proprietors.

In January, 1888, a list was published in the leading newspaper, said to be compiled from authentic sources, from which it appears that liquor was sold in 19 wholesale places, 279 saloons, 91 houses, and 202 groceries : total 591, or more than one hundred in excess of the total number of places selling liquor under licence—the increase being chiefly in “kitchen bar-rooms,” which were then said to be still increasing in numbers.\*

Early in 1889—the last year of prohibition—a series of maps was published in the *Providence Journal*, showing, precinct by

\* *Providence Journal*, January 26, 1888.

precinct, by means of black dots, the number and position of the places where liquor was known to be sold. These maps embodied the result of an investigation made by two reporters specially commissioned to visit, investigate, and report upon this matter in all quarters of the city. The maps, it was claimed, were carefully prepared, and it was believed that no mistake had been made. An independent investigator has informed me that he satisfied himself at the time, by personal observation and inquiry on the spot, that the investigations of the *Journal* were substantially to be relied on. From the statements accompanying the maps, it appears that in the first police district, comprising the centre of the town, the number of dramshops was about the same as before prohibition ; but a considerable increase had taken place in the tenement house and kitchen bar-rooms, where drinking was most vicious and demoralising. Club-rooms had diminished since the first year, their places being taken by open saloons, where no attempt was made at disguise, and where everything but the lettered signs invited custom. Of the other police districts, some were more fertile of saloons, and some—the poorer districts—of kitchen bar-rooms ; but all showed a plentiful crop of black spots on the map. Altogether, it was computed that more than 500 *known* places were doing business in Providence, of which nearly 200 were kitchen or tenement house bar-rooms—three times as many of these as existed in June, 1886, and, doubtless, many more existed unknown. Such places showed a menacing increase principally in the poor districts, and were most difficult of detection so as to prove a case for conviction. Though they existed under licence, there were not then nearly so many of them. They were very miserable places, and the frequent presence of children in them (according to the *Journal* reports) was a special evil.

From other places in the State, as well as Providence—from Burrillville, from Kent County, South County, Washington County, Bristol County—came reports of much violation of the

prohibitory law. There was great and general failure in the conduct of prosecutions against law-breakers. A tribe of professional informers or "spotters" sprang into existence ; but their testimony soon grew to be so discredited that it was impossible to obtain convictions on it. Nine months after the law had gone into effect, the chief of the police in Providence declared that, since juries refused to credit "spotters," it was impossible to obtain evidence in sale cases ; it was hoped to reach better results by proceeding under the nuisance law.\*

In Newport County, it was said that prosecutions were carried through with more success, and the law was better enforced. The chief of police, however, at Newport stated in March, 1887, that much liquor was coming into the place ; there were no open saloons, but most of the business was done in tenement houses, and club-rooms were said to be increasing. There, too, much discredit fell on "spotter" evidence. In South County two spotters were prosecuted for perjury. In Bristol County, statements were quoted of prohibitionists who admitted the failure of enforcement ; the law, in their view, was faulty, and the enactment of a power to raid at night without warrant was advocated ; the fact, however, that the saloon-keeper was outlawed was urged as being in itself a step in the right direction.

In August, 1888, it was reported from Cedar Grove that liquor was being sold in more than forty places of all kinds, including all the hotels but one—the existence of these places being well known to the police, who were said to be paid by them.

In Pawtucket, early in 1889, the total number of known

\* The chief of the State police in his first report, made after prohibition had been in force about six months, stated that inquiry among all classes of people had convinced him that a large majority were opposed to the further employment of detectives to secure evidence of the illegal sale of liquor. The experience of the preceding six months, in his opinion, proved conclusively that reliance solely on this kind of evidence to secure convictions was unwise, though he had no reason to believe them untruthful.



dramshops was stated to be 203 (143 saloons and stores, one-third being groceries; 52 kitchen bar-rooms; 7 hotels; and a club-room). The number, it was said, might be made larger; but doubtful cases were omitted.\*

Referring to official sources of information, I find that commitments to the State workhouse during the first six months of prohibition numbered 141, showing a decrease of 168 as compared with the corresponding months in the previous year, when 309 prisoners were so committed.

In his first report, to which reference has already been made, the chief of the State police † complained of the apathy shown by friends of the prohibitory amendment in working for its enforcement. They seemed to feel, he said, that with its adoption their duties and responsibilities ceased. With the exception of the Women's Christian Temperance Union, to whose persevering efforts the adoption of the amendment was largely due, and the Law and Order Leagues of two or three of the towns, he had received no words of encouragement, much less support, from the many kindred organisations throughout the State. In Bristol, which gave 418 votes for the prohibitory amendment, only fifteen electors at a special town meeting voted in favour of a proposal to appropriate funds for its enforcement. In Warren the same number voted in favour of a similar proposal, and in Gloucester it was by a unanimous vote indefinitely postponed.

Two years later, in 1889, the chief of the State police reported that, having asked for information whether violations of the law had increased or decreased in number since the last

\* The *Providence Journal* for February 13, 1889, contained a map of the central portion of Pawtucket, showing places where liquor was sold.

† The Act, which was passed to give effect to the prohibitory amendment, provided that the sheriffs of the several counties and their deputies, and the town sergeants, constables and chiefs of police, special constables appointed under the Act, and deputy-chiefs of police of the several towns and cities should constitute a State police, having for their special duty the suppression of all liquor shops, gambling places, and houses of ill-fame.

preceding report, he had answers from 37 officers, of whom 22 reported a decrease, 6 (including the chiefs of police of Providence and Newport) an increase, and 9 reported no marked difference. Among those who reported a decrease was the Hon. William Sprague, chief of police at Narragansett Pier, and formerly Governor of Rhode Island and United States Senator; the following extract from his statement indicates the views of one who appears to have favoured the existence of the prohibitory law, but not the attempt to give it a strict enforcement :—

“ I am of opinion that, in proportion to the population, there has been less quantity of spirits consumed in this district the past current year than during previous years. Most, if not all, the sources of drunkenness have resulted through the sales of liquor by the bottle from places inaccessible to the eye of the police, and not by the glass at the counter. The former practice may be likened to guerilla warfare that is evolved after regular warfare has been displaced. It has been the practice of the police here not to force the United States Government victualler and billiard table licensees—who contribute funds to promote the general peace, and who, if at all, publicly dispose of liquor and cigars in connection therewith—to close their establishments, as such evolves the organisation of a widespread guerilla liquor traffic, with no effective menace from police or regular operators. The true course to be pursued to secure the best results from the prohibitory amendment, is to discourage the keeping of liquor in private houses and its sale by the bottle—to encourage its public sale by the glass at the counter rather than through the guerilla liquor traffic mentioned. There should be no encouragement given for the repeal of the amendment. It is a menace, and as such a powerful regulator of the traffic, and if administered in a spirit of wisdom and sense, will favourably affect the general welfare. The prohibitory amendment in Rhode Island may be compared to the elective franchise accorded the late slave; inoperative, but a powerful menace to the unbalanced mental structure . . . . The constant menace to the saloon that the prohibitory amendment effects, coupled with the penalty for its sale without a licence granted by the United States Government, as related to the

guerilla liquor traffic, affords the best basis for its wise restraint and regulation ever inaugurated."

In his last report, made shortly before the repeal of the Constitutional amendment, the chief of the State police observed that upon the Legislature must fall no small portion of the responsibility for the ineffectiveness of prohibition in some parts of the State.

"Officers," he said, "who have long faithfully endeavoured to enforce the law in their precincts, imperfect and comparatively ineffective as it now stands, hoping that the repeated recommendations of this department would become the law of the State, have in many instances become utterly disheartened and discouraged at the refusal on the part of the Legislature to strengthen their hands by efficient weapons, while strengthening their opponents, by remedial legislation, and in not a few instances are unwilling to longer urge so unequal a contest. Upon a reconsideration of the recommendations heretofore made by me in the way of additional legislation, I am more firmly convinced than before that they were wise, proper, and absolutely necessary, and I therefore now repeat the same, referring your honourable body to my report presented at the May Session, 1888, for a detailed account of the same and a Bill prepared by counsel at my request, embodying the same in the form of a proposed statute.\* I am of the firm belief that an injunction Act should be passed, and at once, and that the same will prove the most effective weapon which the officers of the law can wield, whether against the liquor dealers under the present law, or against unlicensed liquor dealers, in the event of your honourable body concurring with the last Assembly in resubmitting the fifth amendment to a popular vote, its repeal by the people, and the subsequent enactment of a licence law."

The insufficiency of the law was thus referred to and accounted for by Governor Davis in his Message to the General Assembly at its January Session, 1888:—

"The chief of State police has been diligent in his office, and the law he was especially appointed to administer has been enforced as far as punitive influence within his control can effect it. That

\* The chief proposal was the enactment of an "injunction law" similar to that of Kansas (*see* p. 129).

the law is not more efficient—and it is sadly inefficient—is for want of a sufficient public sentiment to support it. It is a thankless task to attempt to enforce a law which has not the hearty moral support of the community to sustain it. Laws may represent public opinion, but their enforcement is dependent almost wholly upon the public will, as contradistinguished from public opinion; and without a will the way will not be found. The prohibitory law, so-called, is written upon our Constitution and statutes, and self-respect as well as the obligations of our office demand that we do what we can to accomplish its purpose.”

A year later Governor Taft said :—

“The operation of the laws prohibiting the manufacture and sale of intoxicating liquors is, as yet, very far from being satisfactory. It is generally conceded that the advancement of the cause of temperance is desirable, but as to the best method to accomplish the result, the minds of citizens are widely at variance. On the one hand, it is urged that prohibition is a failure, and should give place to a high restrictive licence; on the other, it is insisted that still severer measures should be adopted. Though the prohibitory amendment has been in force two and one-half years, yet, until the advent to office of the present Attorney-General, the litigation arising under it has not been prosecuted with the zeal and energy necessary to demonstrate whether the system itself, properly administered, was effective or not; and he has not yet been in office a sufficient length of time to push any considerable number of cases through the tedious processes of delay that the criminal code of this State unfortunately admits.”

Upon the subject referred to in the sentence last quoted, the following is the substance of a statement made to me on good authority :—The Republican party, under whose auspices the prohibitory amendment had been carried, adopted, as a plank in its platform at the State Elections of 1888, the principle of a strict enforcement of the law; and the Attorney-General, then elected as a representative of the party, was determined to fulfil the party pledge both on that ground and on the general principle that it was his duty to act upon the law as it stood, and the duty of the people, if they did not

approve of the enforcement of the law, to get the law itself repealed. The judicial system of Rhode Island makes it the duty of the police and local authorities to put the laws in force in the first instance ; but, if a case goes to the Grand Jury, whether on appeal or because it is not triable summarily, it is brought under the control of the Attorney-General as prosecuting officer ; and in this way a large number of liquor cases come under his cognisance. The Attorney-General has in this State very great power as regards the prosecution of crimes, being able to enter a *nolle prosequi* at any stage of the proceedings for any offence.\* On the other hand, the forms of procedure allow to the defendant great opportunities for delaying the course of justice. In the case of the liquor prosecutions undertaken in 1888—89, full advantage was taken of such opportunities ; and every possible influence was brought to bear on the Attorney-General, both on behalf of the persons directly concerned and by members of his party, who foresaw political defeat as the result of too much zeal. Nevertheless, he proceeded on his way. By carefully scrutinising the jury lists, and challenging all those who were in the liquor trade, or in any way connected with it, or under its influence, he was able to secure convictions ; and, in spite of all dilatory pleas and obstruction, he fought and won his cases through all their stages to the point when nothing remained to be done but to bring up the offenders before the court which had tried them, to receive their sentence and go to prison. But at this point he found himself at the end of his year of office, when, under ordinary circumstances, he would have been re-elected for a second term. Instead of this, he was promptly turned out, being the only Republican candidate who failed to be elected ; and not one of the offending rum-sellers (a hundred or more of them) was ever sentenced.

\* I was informed that he could even stop a case after conviction for murder and before sentence. The only checks upon him are the annual election to the office, and the liability to impeachment.

This experience in Rhode Island exhibits a marked instance of the dependence of such a law as prohibition on popular feeling for its enforcement. In the first place, the police in cities and municipalities have to detect and proceed against offenders. The chief of police is under the mayor; he will not proceed more actively than the general opinion—as represented by his official superior, the municipal authority—desires. To do so would be to imperil, and probably lose, his re-appointment at the end of the year. Next, the Attorney-General—to whom these cases subsequently are brought—will generally do no more than is required of him by the managers of his party. If, as in the present case, he undertakes to vindicate the law regardless of consequences, he will not be re-elected, and the law, unless a strong popular impulse in its favour sets in, will soon cease to be vindicated. In Rhode Island the impulse—whether a fully popular one, or a mere shifting of political pressure, to which the liquor question in this, as in many other States, seems to have been peculiarly subject—manifested itself in the other direction; the tide had turned, and the prohibitory amendment to the Constitution was repealed by an overwhelming majority.

The Licensing Law enacted in 1889 may be described as one of modified high-licence, together with local option in a double form. The licence fee varies from \$400 in Providence, down to \$200 in towns with less than 6,000 inhabitants; but an objection by the owners or occupiers of the greater part of the land within two hundred feet of the premises proposed to be licensed, operates as a bar to the grant of a licence—a right of veto which is sometimes exercised. To this modified form of local option in individual cases, by veto of the immediate neighbours, is added the principle of the direct veto for every city and town by popular vote, annually taken on the requisition of a certain number of citizens.

The provisions of the law may be summarised as follows:—

RHODE ISLAND.—*Special Session, July, 1889, c. 816. An Act to regulate and restrain the sale of strong, malt, and spirituous liquors.*

Town Councils\* and, in cities, Boards of Commissioners appointed by the mayor, may grant or refuse to grant licences for the manufacture or sale of pure liquor to such citizens resident within the State as they think proper.

Prior notice must be given, and remonstrants must have the opportunity of being heard. A licence may not be granted where the owners or occupiers of the greater part of the land within two hundred feet object. The licensee has to give a bond of \$1,000, with two residents of the town or city as sureties, for compliance with the law and payment of all costs and damages incurred through violation of it.

A local option vote is to be taken at each election of general officers, on a requisition of 15 per cent. (in cities, 10 per cent.) of the number of voters taking part in the last preceding general election. If the majority is against licences, none may be granted; if it is the other way, "then licences under the provisos of this Act shall be granted," until an adverse vote is taken.

Except in the case of licensed taverns, a licence may not be granted for any place which is connected by interior communication with a dwelling-house, or "to which an entrance shall be allowed other than directly from a public travelled way."

The licence-fees are :—

For an off-licence to manufacture (covering sale at wholesale at manufactory) or to sell at wholesale and retail—not less than \$500 nor more than \$1,000; for a licence to sell at retail only (less than two gallons) in the city of Providence, \$400; in all other cities and towns, of over 15,000 inhabitants, \$350; in towns of from 6,000 to 15,000 inhabitants, \$300; in all other towns, not more than \$300 nor less than \$200.

The sale of liquor on Sundays, or to any minor or person of notoriously intemperate habits, or (for consumption on the premises) to any woman, is prohibited. And a licensee is not authorised "to sell or furnish intoxicating liquors to any person on a pass-book or order on a store, or to receive from any person any goods, wares, merchandise, or provisions in exchange for liquors."

The punishment for illegal selling, or keeping for sale, is a fine

\* Town Councils have also the option of electing licence commissioners.

of \$20 *and* imprisonment for ten days, with increasing penalties after repeated convictions. In the case of a person holding a licence, it is forfeited and he is disqualified for five years, and the town or city is to bring suit for the amount of his bond.

A licensee may also be summoned before the licensing authority for permitting his place to become disorderly, "so as to annoy and disturb the persons inhabiting or residing in the neighbourhood," or for permitting gambling or any violation of the laws of the State; and, if it is made to appear to the satisfaction of the licensing authority that he has violated any of the provisions of the Act, he is to lose his licence and be disqualified for five years.

But for selling to a woman for consumption on the premises, or to a minor, the offender is to be fined \$100 *and* be imprisoned not less than ninety days nor more than a year, and be disqualified for five years; and one convicted as an illegal manufacturer or "common seller," is to be fined \$100 and imprisoned for ninety days, which punishment is doubled on a subsequent conviction.

Anyone forcibly evicting from his premises an intoxicated person to whom he has sold liquor is to be fined \$20, and be disqualified for a year.

Penalties are also imposed for knowingly transporting liquor which has been, or is intended to be, illegally sold.

Town Councils are to appoint special constables to enforce the liquor law; it is also the special duty of sheriffs of counties and their deputies, and of the police of towns and cities, to use their utmost efforts to prevent crime by the suppression of unlicensed liquor shops, gambling places, and houses of ill-fame, and they are also required to do so on request of any taxpayer.

A fine not exceeding \$500, with disqualification from re-appointment, is enacted for neglect or refusal to perform these duties. The sheriff of each county is to appoint a deputy for the purpose of performing these duties.

Provision is made for search and seizure on sworn complaint; forfeited liquor to be destroyed.

A licence is not required for the manufacture or sale of cider, or the manufacture of wine or malt liquor for domestic use, or of alcohol for exportation and sale out of the State, or manufacture or sale, by the gallon and upwards, of wine from fruit grown in the State.

If injury is done to person or property by an intoxicated person, the same right of action lies against the person who furnished any of the liquor causing the intoxication, "if the same was fur-



nished in violation of this chapter," as would lie against the person intoxicated ; and joint or separate actions may be brought.

For selling to a woman for on-consumption, or to a minor, or allowing a woman or minor to loiter on premises where liquor is sold, the husband of the woman, or parent or guardian of the minor, may recover \$100 in an action of debt, for each offence.

Notice not to sell may be given by the husband, wife, parent, child, guardian, or employer of an habitual drunkard ; damages may be recovered for sale within twelve months after notice ; but, in the case of an employer, only if injured in person, business, or property.

Pharmacists may sell without licence for medicinal purposes, on medical prescriptions or on the written order of the buyer.

No action can be maintained for the value of liquor illegally sold, and all payments made for such liquor are held—as between the parties—to have been received in violation of law, without consideration and against equity and good conscience.

All obstructions to the view must be removed on Sundays.

The fact of the very imperfect enforcement of prohibition in Providence and some other parts of the State was, I believe, generally admitted by prohibitionists, and was attributed by them to the inadequacy of the law itself, and of the means taken to give effect to the law, such as it was. The opinion was confidently expressed to me by residents, that the condition of Providence as regards drinking has been better under the existing licence law than it was during, at least, the latter portion of the prohibitory period. A point, to which my attention was specially directed, was the extent to which the liquor traffic during that time was carried on in tenement houses, where it was almost impossible to detect it. The police can go into licensed premises at any time for the purpose of seeing whether the regulations are obeyed. Unlicensed places can only be entered with a search warrant. Even if a place of illicit sale was discovered, a warrant obtained, and a seizure made, more liquor would immediately be brought into the same place, and the sale would recommence and go on for some time before evidence was obtained on which a new search warrant would be issued.

One who had been officially concerned in the duty of enforcing the prohibitory law informed me that, at first, there certainly was a diminution of drinking and drunkenness, followed, however, by a steady deterioration in this respect. The returns of arrests and convictions, he said, did not accurately reflect the real state of the evil, because of the greater difficulty of discovering what was going on, and the fact that the drunken did not appear so much on the streets, where alone they can be arrested. Nevertheless, the returns indicated a considerable and progressive amount of illegal drinking during the prohibitory period.

The following table shows the number of arrests in Providence and some other particulars respecting that city :—

PROVIDENCE (population, 1890, 132,146).

Arrests, etc.	Calendar Year.					
	1886.*	1887.*	1888.*	1889.*	1890.	1891.
All offences ...	...	5,151	5,930	6,446	6,590	6,900
Common drunkards ...	...	105	135	128	145	155
Drunkenness † ...	3,636	3,625	4,006	4,619‡	4,898	5,064
Liquor offences ...	305	103	74	81	100	158§
Liquor seizures ...	20	100	357	205	115	57
No. of police, all ranks	...	...	206	204	217	216
No. of licences :—						
Wholesale at \$800...	...	...	...	...	...	33
Retail at \$400 ...	...	...	...	...	...	392
Druggists at \$5 ...	...	...	...	...	...	65

\* Prohibition was in force July, 1886, to June, 1889.

† Arrests for drunkenness in previous years were :—1881, 5,173 ; 1882, 4,754 ; 1883, 4,389 ; 1884, 4,334 ; 1885, 4,328.

‡ On the rejection of the prohibitory law, a short period of "free rum" intervened before the licensing law was passed in August, 1889. The police report states that most of the increase in the arrests for drunkenness was accounted for by this intervening period.

§ Ninety arrests for selling liquor without licence, an increase of sixty over the previous year.

## CHAPTER XI.

## MASSACHUSETTS.

(Ex-Prohibition. High-Licence. Numerical Limitation.  
Local Option.)

THE Commonwealth of Massachusetts enacted a general prohibitory law in 1855, which was repealed in 1868, and restored in 1869. In 1870 a "free beer" amendment was carried, which was rejected in 1873. The election of 1874 was decisive against prohibition, and in 1875 a licence law was enacted, which was supplemented in 1881 by a local option measure. In 1882 a Bill for the restoration of prohibition was only defeated in the House of Representatives by the casting vote of the Speaker; and in March, 1889, it was resolved by the general court that a proposed amendment to the Constitution prohibiting the manufacture and sale of intoxicating liquors for use as a beverage be submitted to the people for ratification. The vote was taken in April, 1889, but the proposed amendment was defeated by about 131,000 votes to 85,000.

The old prohibitory law being, at first, in many places, indifferently executed, an independent State police was created in 1865 to suppress liquor shops, gambling places, and houses of ill-fame. The feeling of opposition to the law, largely due, it is said, to the attempt to enforce it in Boston, led in 1867 to an inquiry into the whole question before a Joint Committee of the two Houses of the State Legislature. The committee held twenty-seven public sittings between the 19th of February and the 3rd of April; witnesses were examined, and addresses were delivered by representatives of the several parties interested, and a thorough investigation was held. The speech of ex-Governor Andrews in particular was a powerful agent in bringing about a repeal of the prohibitory law.

An examination of the report of this committee will indicate the considerations which led to this result, though the question continued to be fought for some years longer.

The committee reported that they found themselves confronted by three facts :—

I. *The strength and character of the opposition to the existing prohibitory law.* Upon this the committee say :—  
“Among the witnesses for the petitioners there were very many men whose character and opportunities for information gave peculiar weight to their testimony. Several of the former Governors of the State, a large majority of the municipal officers of our cities, present and former Judges, present and former district attorneys, eminent and noted ministers of the gospel of every denomination, city missionaries, a large body of our most distinguished medical men and chemists, sound and experienced business men, many total abstinence men (some of whom had advocated and been foremost in the enactment of the present law), with very many others, coming from all parts of the State, and looking at the question at issue from their various points of view—testified in favour of a modification of the law. It is without precedent in the history of the Legislature of this State, that a *criminal* statute should be so numerously opposed by men of this class and character.”

II. *That this opposition was increasing.* “It is certainly a significant fact that the opposition to this law seems steadily to have increased. So long as the law was not enforced, there was comparatively little opposition to it. As soon as it is enforced, and the further that its principles are carried into execution, there spring up opponents on every side, not merely or chiefly those who are pecuniarily interested in the matter, but thousands of good citizens, who cannot be assumed to be controlled by any other motive than regard for the public good.”

III. *The character of the legislation designed from time to time by the supporters of the law to carry it out more effectually.*

The ordinary methods of procedure suffice for the enforcement of the whole criminal code ; but for this particular law, the course taken by its supporters seems to indicate great distrust on their part of the ordinary methods. A special State police has been created ; the district attorneys have been tied down by special regulations depriving them in these cases of the discretion allowed to them in all other matters. "These strict enactments were designed to compel and have compelled prosecuting officers to administer the law with a harshness not deemed necessary in the case of other laws." Attempts have been made to alter the jury laws in the trial of these cases ; and the Judges are not allowed the ordinary discretion in awarding punishments.

These three facts, in the opinion of the committee, "tend to raise serious doubts as to whether the law is approved by the people ; and, if not approved by the people, whether it is a just and proper criminal law."

Some witnesses expressed their belief that the use of any quantity of intoxicating liquor as a beverage is in all cases a sin ; but this did not appear to be the view of the mass of the supporters of the law. Medical opinion was divided on the question whether such beverages were beneficial or injurious. The law did not prohibit the purchase or the use, but only the sale, of liquors. "If it is wrong to use liquors as beverages, why not punish those who use them ? If the law studiously neglects to punish the buyer and the user, is it not strong proof that, in the opinion of those who framed it, the use is not wrong ? And if the use is not wrong, is there any sense or justice in punishing those who sell for the use ?"

Upon the argument that the general good requires all men to abstain from liquor because some will use it improperly, the committee maintained that it was beyond the legitimate scope of legislative action to attempt, by criminal enactment, to prevent the many from using these beverages because a few may abuse them.

As regards the practical results of the law, the committee were of opinion that, with a strong and vigilant *State* police, it might be possible to prosecute successfully most of those who *openly* violated the law, though, with public sentiment in most of the cities and very many of the towns sustaining those who sold, this was not always possible. But "the evidence before the committee, though, of course, to some extent conflicting, tended to show that in all those cities or towns where the prosecutions against open places had been the most active, an extraordinary number of such places was started, and that more liquor and worse liquor was drunk, and that more intoxication ensued."

The following statistics were given :—

	1854.	1866.
Number of places in Boston in which liquor was known to be sold ... ..	1,500	1,515
Number of arrests for drunkenness ... ..	6,983	15,542

In January and February, 1867, when the law was enforced with unprecedented vigour, a large further increase in the number of arrests appeared. The report was general from different parts of the State, that drunkenness and breaches of the law were very prevalent in the cities and large towns, while in the small towns\* hardly any liquor was sold.

The committee called attention to the immoral business practices sanctioned by the prohibitory law, which allowed men to purchase liquors on credit, and then repudiate their debt, and to the fact that liquors could not be attached in execution of a judgment, since the officer who seized them would be liable to prosecution for selling them.

\* It must be recollected that, in Massachusetts, the word "town" includes not only those urban districts which have not risen to the rank of cities, but also all the rural districts.

In conclusion, the committee expressed their belief "that the time had come when this prohibitory law—unsound in theory, inconsistent with the traditional rights and liberties of the people, tempting to fraud and protecting those who commit it, in many communities not enforced because of thorough disbelief in its principles, in other communities, when enforced, driving the liquor traffic into secret places, and so increasing rather than diminishing the amount of drunkenness and other crimes—should be so far modified as that the rights of the citizens will be respected, while, at the same time, the general peace and order of the community will be better promoted." The committee recommended that cider and beer containing less than 3 per cent. of alcohol might be sold without licence, and proposed in detail a licence law for other liquors. The report was signed by three members of the Senate and five members of the House.

A minority report was also presented (signed by one senator and three members of the House), setting forth the evils of intemperance and the necessity of prohibition being maintained. The argument that the law could not be enforced was traversed, the opinion of the district attorney for Cumberland County being quoted in this sense.

The existing Local Option Law of Massachusetts is peculiar in requiring a direct vote to be taken *every year*, in every city and town,\* on the question: "Shall licences be granted for the sale of intoxicating liquors in this city (or town)?" Before licences can be granted, an affirmative vote must prevail; in the event either of no vote being taken or of an equality of votes on either side, there would be no power to issue licences, and liquor could not be legally sold. If the answer "yes" has the majority, applications for licences are made in March or April to the local municipal authority† (in Boston, to the

\* The whole State is divided into "cities" and "towns"—the former now (1893) numbering 30, and the latter 321.

† In a city, the mayor and council may appoint a board of three Licence

Board of Police), and the licences take effect on the 1st of May. The licensing authority may refuse to issue a licence to a person whom they deem unfit to receive it; "but nothing herein shall be so construed as to compel" the granting of licences.\*

The following classes of licences are issued at the following rates, the licence duties (except in the sixth class) having been increased under a recent statute :—

Classes of Licence.	Fees.
1. To sell liquor of any kind, to be drunk on the premises... ..	Not less than \$1,000.
2. Beer, cider, and wine, <i>on</i> ... ..	Not less than \$250.
3. Beer and cider, <i>on</i> ... ..	Ditto.
4. Liquor of any kind, <i>off</i> ... ..	Not less than \$300.
5. Beer, cider, and wine, <i>off</i> ... ..	Not less than \$150.
6. Apothecaries—for medicinal, mechanical, and chemical purposes only ... ..	\$1.

The licence-fees now actually charged in Boston are as follows :—

For Licences of the 1st Class, to sell all kinds of intoxicating liquors, to be drunk on the premises :—

A. Innholders ... ..	\$1,500
B. Innholders ... ..	1,200
Common Victuallers ... ..	1,000

For Licences of the 2nd and 3rd Class, to sell malt liquors, cider, and light wines, containing not more than 15 per cent. of alcohol, to be drunk on the premises :—

Common Victuallers ... ..	\$500
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Commissioners to be the licensing authority. In 1892, a Bill was introduced in the Legislature for making such appointment compulsory, with a view to protecting the purity of municipal administration by removing from the aldermen the pressure of saloon interests.

\* In 1888, the Board of Aldermen of Haverhill refused to give any licences, although the vote of the city had been cast, by a small majority, in favour of licences.



For Licences of the 4th Class, to sell all kinds of liquors, not to be drunk on the premises:—

Grocers*	...	...	...	...	...	...	\$300
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Wholesale Druggists	...	...	...	...	...	...	300
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A. Wholesale Dealers (only to be issued in conjunction with a first-class victualler licence)	...	...	...	...	...	...	300
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B. Wholesale Dealers...	...	...	...	...	...	...	1,000
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For Licences of the 4th Class, to distillers	...	...	...	...	...	...	1,000
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For Licences of the 5th Class, to sell malt liquors, cider, and light wines, containing not more than 15 per cent. of alcohol, not to be drunk on the premises:—

Bottlers	...	...	...	...	...	...	\$500
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Brewers...	...	...	...	...	...	...	1,000
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For Licences of the 6th Class, to druggists	...	...	...	...	...	...	1
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Special Club Licence	...	...	...	...	...	...	50
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The following extract gives similar information for another large town:—

#### WORCESTER LICENCE-FEES FIXED.

[Special Dispatch to the *Boston Herald*.]

Worcester, *March 27*, 1893.—The Board of Aldermen to-night fixed the fees for liquor licences as follows:—Innholder, first class, \$1,400; common victuallers, first class, \$1,400; common victuallers, second class, \$1,100; wholesalers, fourth class, \$2,200; brewers, fifth class, \$1,000; grocers, wholesalers, bottlers, fifth class, \$500; druggists, sixth class, \$1. These are the same fees as were fixed two years ago. A petition, asking that first-class and fourth-class licences be granted to the same person, was tabled.

By a law which was passed in 1888 and came into operation in 1889 (in which year also the licence duties were raised), the number of licences (exclusive of apothecaries') is limited to 1 per 1,000 of the population (in Boston, 1 in 500), with a special provision for summer resorts, where the number may be increased during the three months which constitute the season.†

\* A Bill to prohibit liquor-selling by grocers was brought forward in 1892 and 1893.

† A proposal to repeal this law was in 1893 defeated in the House by 131 votes to 80. A Bill was also introduced proposing the adoption of a modified form of the Norwegian system. A commission has been appointed to investigate that system and to report in 1894.

The immediate effect of these two laws (high-licence and limitation of number) will be seen from a comparison of the following figures for the two years ending respectively April, 1889, and April, 1890 :—

	1889.		1890.	
	No. of Licences.	Amount of Duty.	No. of Licences.	Amount of Duty.
Massachusetts ...	4,832	\$1,286,305	2,277	\$1,812,810
Boston ... ..	1,798	616,948	780	891,668

In a single line of street in Boston, a little over half a mile long, including the intersecting side streets for a distance of about one hundred yards on each side, the saloons were reduced from 122 to 29.\*

The annual report of the Law and Order League † for 1890, issued after one year's experience of the new legislation, stated that (contrary to the expectation of many) the law had been well enforced in Boston, both in regard to the observance by licensees of the hours of closing and the other regulations applicable to them, and in regard to the suppression of

\* A map was printed of this section of the town, showing graphically by black dots the saloons before and after the change.

† The Citizens' Law and Order League of Massachusetts was formed in 1882 "to secure a better enforcement of the restrictive features of existing laws for the regulation of the liquor traffic." By 1892 branches of the League had been established in 111 municipalities. In the report for 1892 it is said that at the time when the League was founded more than three-quarters of the towns and cities in the State had voted "no licence," and in nearly all the saloons were as open and doing as large a business as when they were sanctioned by licences. The police were largely under the control and acted in the interests of the liquor-sellers. The change brought about in the police system in 1885 altered this. The League claims credit for having in ten years brought about a reduction in the number of licences in Boston from about 2,600 to 896 (the number for 1892), while the receipts from licence fees have been quadrupled, and the provisions of the law have become enforced with vigour and increasing success.

unlicensed places. On the other hand, there was an increase of arrests for drunkenness, which, however, the report attributed partly to a better system of patrol by the police, and partly to a stricter enforcement of the no-licence law in the cities adjoining Boston, a change which had resulted in their drinking population coming into that city in increased numbers. During the latter of the two years 39 per cent. of the persons arrested for drunkenness in Boston were non-residents of the city. In the following year (1891) the number of arrests fell off by about 2,000, a result attributed in a great degree to the introduction, under circumstances about to be noticed, of tables in lieu of bars for the accommodation of drinkers.

A licensee of the first three classes must hold a licence as an inn-keeper or common victualler (a requirement which seems to have long had a lax interpretation)\*; and until recently there was a provision forbidding him to keep a public bar. This last provision remained for some fourteen years in the statute before any attempt was made to enforce it. In 1890, however, the licensees were warned by the board of police, at the instance of the Law and Order League, that a strict compliance with this condition would be insisted on. The result was the introduction of the practice of selling liquor at tables instead of over counters, a practice also of doubtful legality. The change, however, was apparently beneficial, since it was immediately attended by a diminution of arrests for drunkenness; but in 1891 the public bar clause was repealed, and at the same time a check was placed on the serving of liquor at tables. Bars were once more brought into use, and an increase of arrests for drunkenness immediately

\* Any one was allowed to call himself a common victualler who had a stove, a table, and two or three plates, knives and forks. A case is mentioned of a man buying a stove, etc., for the purpose of obtaining a licence, and immediately selling it when the licence was obtained; and it is said that 1,500 licences would be issued when there were not more than 250 *bonâ fide* common victuallers. At the present time, however, the practice is believed to follow more nearly the intention of the law.

followed. In 1892 an unsuccessful attempt was made to re-enact the prohibition on bar-drinking.\* The following figures of the number of arrests for drunkenness in Boston in three consecutive years indicate the effects of these changes in the law :—

Year ending April 30,† 1890	...	...	...	...	25,033
„ „ „ 1891 (the year of the tables)	...	...	...	...	23,225
„ „ „ 1892 (after repeal of bar clause)	...	...	...	...	31,691

The increase, however, of arrests in 1892 is believed to be partly due to an alteration in the law respecting the punishment for drunkenness, to be noticed later.

No sale is allowed on Sundays or public holidays or days of election (except to guests in hotels), nor between 11 p.m. and 6 a.m., nor to drunkards or minors.

There has been much abuse of the law allowing Sunday selling to guests in hotels, but the Police Board issued a warning in 1889 that no person would be considered a guest who had not hired a room. Some years ago sales to children were frequent; and the early efforts of the Law and Order League were chiefly directed to checking this abuse.

A place used for the illegal sale of liquor is a common nuisance and an injunction for its suppression may be obtained on the information of the district attorney, or on petition of ten voters.

“Intoxicating liquor” is defined to include any beverage containing more than 1 per cent. of alcohol.

A common victualler’s licence cannot be granted if the owner of any real estate within twenty-five feet objects, nor can any premises within four hundred feet of a school be licensed for *on*-consumption. An attempt to extend this provision to buildings used for religious worship was defeated in 1892.

The law further contains provision for the issue of search

\* The Bill was passed by the Senate and House and vetoed by the Governor.

† The date at which licences expire. The police returns (*see* p. 221) are made up for the twelve months ending November 30.

warrants, and for the seizure and analysis \* of liquor, etc. The penalty for violation of the liquor law is fine from \$250 to \$500, and imprisonment from one to six months. A licence is also liable to be forfeited for violation of any of its conditions.

In districts which vote no licence, all places used by clubs for the purpose of selling, distributing or dispensing liquors to their members or others are deemed common nuisances.

The "civil damage" clause provides that any one injured in person, property, or means of support, by an intoxicated person, or in consequence of his intoxication, has a right of action for damages against the person who supplied any liquor wholly or partly causing the intoxication. It has been held that if the damages cannot be recovered from the licensee, his sureties may be sued upon their bond.

The mayor, or (in towns) a selectman, or a relative may give notice respecting any drunkard to liquor-sellers not to sell to him. If the notice is not observed, the relative of the drunkard may sue the offenders for damages not less than \$100 nor more than \$500.

The law requires that physiology and hygiene, including special instructions as to the effects of alcoholic drinks, stimulants, and narcotics on the human system, be taught as a regular branch of study to all pupils in all general schools supported wholly or in part by public money.

It is said that in 1875, the temperance party being disgusted at the repeal of prohibition, and therefore taking little part in the execution of the new law, and the liquor dealers straining it as far as they could, there ensued for some time a considerable laxity. The Licence Commissioners, however, reported in 1878 that under the licence law the consumption of distilled spirits had been greatly diminished, as was shown from various sources, among them from the evidence of the wholesale dealers and distillers, who asked for a reduction of the duties on the ground that their trade

\* In 1878 the Licence Commissioners took a quantity of samples of liquor for analysis, the result of which is stated in their report for that year. The liquor proved to be to a great extent adulterated with water and colouring matter, but no really poisonous or injurious adulteration was found.

had diminished 40 to 60 per cent., owing to the increased use of malt liquors. Under prohibition, the use of beer was comparatively small, owing to its bulk ; spirits also were of inferior quality, so that when a seizure was made the loss was small. The commissioners, in the same report, gave the following figures of arrests for drunkenness in Boston :—

1874 (prohibition)	...	...	...	...	11,592
1875 (licence)	...	...	...	...	10,325
1876 „	...	...	...	...	8,564
1877 „	...	...	...	...	8,213

The police force of Boston, which, until 1885, had been under the control of Police Commissioners appointed by the municipality, was in that year placed under a board of police, appointed by the Governor and Council—the city authorities having certain concurrent powers as regards the fixing of salaries and the number of constables. This change was promoted by the Law and Order League, in the interests of a better administration of the licence laws. It is said by the advocates of the new system that liquor licences used to be granted or refused, according as the applicant had or lacked political influence, and that the old police force was so controlled by political considerations that a combination of law-breakers could and did say to police officers : “Serve us, or we will take your buttons off.” A stop has now been put to these abuses ; and it is claimed that the efforts of the League have given to Boston the best police system yet inaugurated in the United States, and that the liquor laws are better administered there than in any other large city in the country.\* Selling on Sundays and after hours is reduced to small proportions—a fact which, there is good reason to believe, is largely due to the police being independent of the municipality and of local

\* “Report of the Secretary at the tenth annual meeting of the Citizens’ Law and Order League of Massachusetts, 1892.”

politics.\* A continual agitation is carried on, more or less actively, for giving back the police to the city, and for taking away from the board the licensing power which is now vested in it. On the other hand, an attempt has been made—hitherto without success—to place the whole of the police throughout the State under State control—a favourite argument for the adoption of this course being that the great majority of the laws which the police have to enforce are State laws.

The Boston police force numbers about 900 of all ranks, or, roughly, 1 to every 500 inhabitants (and one to every place licensed for the sale of liquor). The cost of the force for the year ending November, 1892, according to the official returns, was \$1,172,000. The area under its charge is upwards of 23,000 acres of land, besides the harbour and islands in the harbour.†

Opinions differ in Massachusetts regarding the merits of the "high-licence" system. The arguments used in condemnation of the system are : That it places the trade in the hands of the wealthiest and ablest men engaged in it, who become a great local power ; that it is a source of corruption in public officers ; that it obliges the licensees to push their trade to the utmost, and by illegal as well as legal means, in order to recoup themselves for their outlay ; that it leads to illicit trade—the poorer saloon-keepers, who are crowded out by their more powerful brethren, continuing to carry on business in an underground way, while the licensed dealers, who are themselves continually breaking the law, are not in a position to enforce it (as it is commonly expected that they will) against the unlicensed. The advocates of high-licence, on the other hand, admit that, if it were not accompanied by a limit on the number of licences, their system would be likely to promote

\* In an address to the people of Pittsburg, Pennsylvania, the Rev. Wilbur F. Crafts, D.D. (author of "The Sabbath for Man"), declared that Boston had the quietest Sunday of any large city in the Union ; the saloons were closed and the streets orderly.

† A detailed account of the police force in Boston was given in the *Boston Sunday Herald*, February 14, 1892.

breaches of the restrictive regulations on the part of the licence-holders; but that, with such a limit, this objection does not apply. In Boston, it is maintained that the licensed premises are better conducted; that the proprietors take much more care to observe the conditions of their licences than they did when a saloon-licence cost only \$125—the same licence for which \$1,300 is now paid—the dealers now feeling that they have something substantial to lose if they are detected violating their licences; while, at the same time, the law successfully asserts itself against unlicensed dealers.

The amount now received from licence-fees in Boston is almost equal to the cost of the police force. The receipts from these fees during a series of eleven years have been:—

## YEARS, ENDING NOVEMBER 30.

1882	...	...	...	\$258,865	1888	...	...	...	\$585,002
1883	...	...	...	282,324	1889	...	...	...	616,948
1884	...	...	...	305,551	1890 (high-licence)	...	...	...	891,668
1885	...	...	...	521,178	1891	...	...	...	1,032,672
1886	...	...	...	511,830	1892	...	...	...	1,058,146
1887	...	...	...	602,841					

Upon the general question, whether the existing liquor laws of Massachusetts—the leading principles of which are local option, high-licence, and limitation of the number of licences—are adequately enforced, and to what extent they are successful in controlling drunkenness, there appears to be a general belief that, in the great majority of the country districts and in some, perhaps a majority, of the cities, a vote of “no licence” implies a condition of sentiment favourable to the enforcement of the law, and that in such cases it is generally enforced with vigour and, on the whole, with success—greater success than is likely to attend the enforcement of a general prohibitory law in a locality which does not distinctly favour it; and it is claimed that the requirement of a local option vote annually has the double advantage of keeping public opinion directed upon the liquor question, and of applying the law of prohibition to just those places in which, for the time being, it is possible to enforce it.



In the more populous places, however, it is impossible entirely to prevent the illicit trade being carried on in secret; and, in some cases, it flourishes quite openly and without restraint. Advocates of prohibition have themselves expressed the opinion that it is better that "licence" should be voted in Boston (though they would not themselves vote for it), on the ground that prohibition cannot as yet be there enforced.

Illegal liquor-selling by druggists seems also to be not uncommon in prohibitory districts, in many of which persons have entered the drug business apparently for the purpose of selling intoxicating liquor (under the provision authorising such sale for medicinal, mechanical, and chemical purposes). In 1891, nearly three times as many druggists' licences were granted as there were in 1884. This increase is the more remarkable seeing that more than 200 municipalities have discontinued granting any such licences.

The following table gives some details of recent voting on the annual question of licence or no licence. The vote, in towns, is taken in the early part of the year, and in cities in December. The licence year begins May 1; so that the vote in a town governs the year in which the vote is taken, while, in a city, it does not take effect till the following year. The return from which the figures in the table are taken is for the calendar year; the table, therefore, does not show the state of affairs at any given moment, resulting from the votes cast in both cities and towns:—

Year in which vote taken.	Number of cities and towns voting on question: "Shall licences be granted?"				Number of votes cast.		Aggregate population (approximate).			
	Yes.		No.		Yes.	No.	Of cities		Of towns	
	Cities.	Towns.	Cities.	Towns.			Voting Yes.	Voting No.	Voting Yes.	Voting No.
1890	18	69	10	257	129,268	108,533	1,095,000	277,000	...	...
1891	16	61	12	262	119,191	127,123	1,024,000	348,000	230,000	636,000
1892	12	43	18*	278	134,819	158,957	848,000	546,000	174,000	670,000

\* Including two newly-created cities, Everett and Medford.

Comparing the weight of the voting on this question with the total number of registered voters and with the vote for Governor, we find the following result:—

Year.	Registered voters.	Total vote on Local Option.	Total vote for Governor.
1891	399,000	246,500	321,500
1892	448,500	294,000	380,000

The liquor question does not, therefore, on the whole, call out a very heavy vote, but the figures for the last three years show a steady progress for "no licence," which, in 1892, had carried three-fifths in number of the cities, and two-fifths of the city population; while in more than six-sevenths of the towns, containing something less than four-fifths of the population outside the cities, no licences were issued. In both 1891 and 1892, an aggregate majority of votes was given for "no licence," and, in the latter year, more than one-half of the population of the State were committed to prohibition.

If, however, individual places are taken, the progress is less uniform. The cities, in particular, show a somewhat remarkable tendency to and fro between licence and no licence.\* Thus, in 1891, two cities changed from "no licence" to "licence," while four took the opposite course. In 1892, the same tendency was much more marked; of the whole twenty-eight cities which voted as such in the previous year (the two newly-made cities being omitted), fourteen reversed the previous year's vote—five turning from "dry" to "wet," and nine from "wet" to "dry." This would seem to show that in a large proportion, at least, of the urban communities local option, after a trial of eleven years, has by no means produced a settled

\* Four cities—Quincy (16,700), Newton (24,300), Malden (23,000), and Somerville (40,000)—are distinguished for having consistently voted "No" from the beginning down to the present time. All are in the immediate neighbourhood of Boston—Quincy, the most distant, being within eight miles. In the latter place the law has been enforced with much vigour owing largely to the exertions of one citizen.

state of public opinion on the liquor question. But it must be added that the voting turns, not infrequently, on a false issue, and is decided on some ground connected only in a secondary degree, or even not connected at all, with the simple question of the expediency of recognising or prohibiting the saloon.

Sometimes, in places where there is no really preponderating prohibitory sentiment, it happens that, owing to public disgust occasioned by the discovery of gross jobbery or corruption in the granting of licences, a vote of "no licence" will be carried; occasionally, the same result will be brought about by the action of disappointed candidates for licences, who are willing to revenge themselves on their more fortunate rivals, and perhaps think to improve their chances of carrying on a remunerative illicit trade. In such cases, the law will probably be to a great extent evaded—perhaps even be little else than a dead letter.

The "no licence" vote of 1892 in Fall River was, as I was informed, attributable to internal dissensions in the Municipal Council, and it was not anticipated that any serious and sustained attempt would be made to enforce the law. In one place, I was even told that a local option vote had once turned on a dispute between two rival churches concerning the purchase of a plot of land.

In 1891, a great rally against liquor was made in Boston—the vote on that side of the question rising from 13,900 to 21,500, while the liquor vote fell from 29,100 to 25,600. In the following year this movement went still further, "licence" being carried only by 31,600 to nearly 30,500. Here, again, we find an example of the question being determined on a side issue. A portion of the saloon vote had been cast at the election for Governor (November, 1892) in favour of the Republican candidate;\* accordingly, in the following month

\* It was alleged that one of the Police Commissioners (who are the licensing authority in Boston), being a Republican and a politician, had made his influence felt among the liquor-sellers at the election. The

when the local option election was held, a number of Democratic votes, which, under ordinary circumstances, would have been cast for "licence," fell on the opposite side by way of retaliation on the saloon-keepers for what was regarded as an act of apostacy.

As examples of the tendency of individual places to fluctuate backwards and forwards on the local option question, the following cases may be mentioned; to add largely to them would probably be a mere question of labour in examining the returns for several years. The figures of arrests for drunkenness are taken from a newspaper\* published in the anti-liquor interest, which gave them as showing the improved results obtained under "no licence":—

FITCHBURG (population in 1890, 22,000).

Year.	Local Option Vote (passed previous Dec.).	Arrests for Drunkenness. May to October.
1888	No licence.	181
1889	Licence.	253
1890	No licence.	128
1891	Licence.	461
1892	No licence.	315

WORCESTER (population 84,600).

1886	No licence.	596
1887	Licence.	1,578
1890	No licence.	612
1891	Licence.	1,699
1892	No licence.	952

Republicans themselves denied this, and stated that the transfer of a certain number of liquor votes to their side was due to the non-partisan character of the police and licensing administration, which placed the liquor men in a more independent position and enabled them to throw off their subservience to the Democrats, both in the matter of votes and of contributions to the Democratic campaign fund. In either case, it was agreed that the "no licence" vote cast by many Democrats at the local option election was an act of retaliation.

\* *The Frozen Truth* for December 9, 1892, published at Cambridge, Mass.

## HAVERHILL (population 27,400).

1890	No licence.	176
1891	Licence.	612
1892	No licence.	373

It should be pointed out that a "no licence" vote, passed in December, takes effect only in May, current licences continuing in force till the end of April. On the other hand, if in the following December the voting is reversed, though no licences can be given to take effect before May, still, in practice, the prohibition on the sale of liquor will not be enforced after the adverse vote is taken. Consequently, in the case supposed, "no licence" will have practical effect only from May to December—seven months—while, in the converse case, the sale of liquor will go on without interference for nearly a year and a half, *i.e.*, from the moment when the vote for "licence" was given to the May year following, when the licences expire.

In Worcester and some other cities, it is admitted that the prohibitory law is not generally well enforced; but friends of "no licence" claim that it does good even where the enforcement is very imperfect, and they point to the figures just given to support their view. On the other hand, it is said that some allowance should probably be made for a greater proportion of drunkenness which, in places where the open saloon is abolished, does not appear on the streets, and so swell the returns of arrests.

Subject to such fluctuations, the larger cities, on the whole, generally vote for "licence"—the chief exception being Cambridge, with 70,000 inhabitants, which from 1887 onwards has steadily outlawed the saloon. The circumstances, however, of Cambridge are peculiar. It has a large resident population of persons connected with Harvard University, and it is close to Boston.\* There is little doubt that both in this and in other

\* In Cambridge, it is said that "no licence" was first carried (December, 1886) through dissatisfaction with the municipal authority,

cities and towns in the immediate neighbourhood of Boston the vote for "no licence" is supported by many who are not prohibitionists, but are influenced by reasons of local convenience and the facilities afforded by the adjoining city. In Cambridge, the law is said to be, on the whole, very well enforced, though a certain amount of liquor is illegally sold by druggists, and the discovery and punishment of breaches of the liquor law are sometimes attended with difficulties greater than are experienced in dealing with crimes of a different character. Thus, the chief of the police, in his report for 1889, complained that he had great difficulty in obtaining evidence in these cases, and that good citizens, who in other cases would render assistance, refused to testify.

The following statistics for Cambridge are taken from the official reports. The number of licences issued for several years before the first "no licence" vote was: 1881, 155; 1882, 105; 1883, 200; 1884, 212; 1885, 314; 1886, 337:—

## CAMBRIDGE (70,000).

	Year, ending November 30.				
	1886.	1888.	1889.	1890.	1891.
Total arrests ... ..	1,703	1,469	1,544	1,773	2,312
Drunkenness ... ..	720	653	722	...	900
Violation of liquor law ... ..	36	...	50	...	146*
Intoxicated persons assisted home	43	...	12	...	28
Search warrants issued ... ..	27	...	92	...	142
Paupers in City Almshouse ... ..	302	...	304	...	239
Lodgers†... ..	1,078	...	534	...	70
Police force ... ..	76	...	79	...	85

Cambridge is connected with Boston by two bridges; and a large number of the arrests for drunkenness are made at the which was alleged to have used too little discrimination in the issue of licences, and, in particular, to have licensed certain premises in the immediate neighbourhood of an adjoining "no licence" place, for the benefit of persons coming from thence.

\* 99 convictions for illegal sale of liquor in 1891.

† *i.e.*, casual poor persons receiving a night's lodging.

Cambridge ends of the bridges, as the revellers return from Boston. From the Report of the Prison Commissioners for 1892, it appears that a large increase in the number of arrests for drunkenness took place in that year—the figures being, for the twelve months ending September 30, 1,515, as against 935 the previous year. The increase in 1892 was general in the cities; but in the towns there was a diminution.

The following statistics of a few other cities may be added :

## SALEM (30,800).

Voted "Yes" ... ..	December, 1890.
„ "Yes" ... ..	„ 1891.
„ "No" ... ..	„ 1892.

	Year ending Nov. 30.		Year ending Sept. 30, 1892.
	1890.	1891.	
Total arrests ... ..	1,217	1,458	1,552
Drunkenness ... ..	904	1,043	1,119
Violation of liquor laws... ..	6	2	...
Intoxicated persons assisted home ...	20	23	...
Liquor seizures ... ..	8	8	...
„ warrants issued, nothing found..	18	16	...
Lodgers ... ..	1,144	966	...

Salem voted "no licence" in 1892, having for some years previously gone the other way. The mayor in his annual address (1890) stated that the system of territorial limitation in the issue of licences (*i.e.*, restricting them to a particular area in the town), in vogue for several years, was giving general satisfaction. The city marshal in 1890, referring in his report to the diminution of arrests for drunkenness (which were 240 less than in the previous year), remarked: "This, I think, is due in part to the fact that licences were granted in the town of Peabody last May." This illustrates a common and obvious result of local option, of which Boston and its surrounding cities present a more striking example. When Peabody allowed no saloons, the inhabitants of that place who wanted liquor came to Salem; when saloons were opened again in Peabody, they

stayed at home, relieving Salem of an appreciable quantity of drunkenness.

## WORCESTER (84,655).

Voted "No"	...	...	...	December, 1889.
" "Yes"	...	...	...	" 1890.
" "No"	...	...	...	" 1891.
" "Yes"	...	...	...	" 1892.

	Year ending November 30.					Year ending Sept. 30, 1892.
	1887.	1888.	1889.	1890.	1891.	
Total arrests ...	4,236	4,241	3,949	3,111	4,060	4,064
Common drunkard. ...	...	...	27	...	42	...
Drunkenness ...	...	...	2,954	...	2,894	2,827
Violating liquor law	233	104	79	...	163	...
Intoxicated persons sent home ...	...	...	741	...	868	...
Lodgers ...	...	...	5,097	...	5,146	...
Income from liquor licences ...	...	...	\$83,206	...	\$120,267	...
Police force ...	...	...	94	...	103	...

The city marshal, in his report for 1889, claimed that the diminution of the total arrests, and of the arrests for drunkenness, proved the restriction on the number of licensed places to have produced good results.

## GLOUCESTER (24,650).

Voted "Yes"	...	...	...	December, 1890.
" "	...	...	...	" 1891.
" "	...	...	...	" 1892.

	Year ending Nov. 30.		Year ending Sept. 30, 1892.
	1890.	1891.	
Total arrests ...	857	1,119	1,533
Drunkenness ...	488	671	1,123
Violation of liquor law ...	19	31	...
Intoxicated persons assisted home ...	103	98	...
Liquor seizures ...	38	44	...
" search warrants served ...	197	145	...
Income from liquor licences ...	\$23,902	\$34,386	...



In the four cities which have always excluded the saloon since the first year of local option, the statistics of arrests for drunkenness in the last two years are as follows (taken from the report of the Prison Commissioners):—

Year ending Sept. 30.	Malden.	Newton.	Quincy.	Somerville.
1891	172	635	132	808
1892	252	750	184	1,218

The figures in the following table of arrests for breaches of the liquor laws in Boston during the last few years are taken from the annual reports of the Board of Police:—

Year ending November 30.	No. of Arrests.	Increase or Decrease per cent. compared with preceding year.	Percentage of foreign birth.
1888	568	...	...
1889	838	+ 47½	69
1890	684	— 18	68
1891	612	— 10½	63
1892	534	— 13	65

Much of the liquor trade is in Irish hands, a fact which accounts for the high percentage shown in the fourth column of the table.

The large increase of arrests in 1889 is doubtless due to the sudden reduction in the number of licences brought about by the new law which took effect in that year. The proposed constitutional amendment adopting prohibition was also defeated in 1889; and it has been suggested that this fact may have contributed to the increase of illicit trading, from an idea that public opinion was lax.

The chairman of the Board of Police stated before a committee of the Legislature in January, 1892, that complaints of the manner in which the liquor dealers carried on their business had continuously decreased since 1886. "Kitchen bar-rooms," he said (*i.e.*, unlicensed "dives" where liquor is

sold), "exist, and, I suppose, always will exist."\* The following statement was furnished by him (as reported in the *Boston Morning News*, February, 6th, 1892), with the exception of the figures for 1892, which I have taken from the Report of the Board of Police for that year:—

	1885.	1886.	1887.	1888.	1889.	1890.	1891.	1892.
No. of complaints for violation of conditions of licence, made either to board or in court † ...	332	391	196	197	104	45	26	42
Licences forfeited ...	65	108	57	44	29	3	1	1
„ „ (druggists) ...	...	...	5	5	10	12	6	3
Licences in force (Nov. 30) † ...	2,677	2,059	1,929	1,789	779	892	895	896
Applications for licences rejected... ..	...	1,068	701	514	492	425	287	229

\* One kitchen bar-room is mentioned which the police had unusual difficulty in detecting. People were repeatedly seen coming out drunk, but repeated visits were made by the police without success. At last a pipe was found and followed through three different houses round into another street, where six kegs of beer were discovered in a cellar connected with the pipe. The beer was drawn out of the common faucet in the sink, whence either beer or water could be drawn at will. In another case, after a long and fruitless search, a recess containing liquor was found behind a picture hanging on the wall. Sometimes when an officer enters and calls for drink, if any suspicion is felt, he will be served with beer which turns out to contain less than 1 per cent. of alcohol. It is said that at the present time beer is no longer sold in the kitchen bar-rooms; only hard liquor is kept in small quantities on the person (the stock being kept in another house), so that all search of the premises is useless; and the vendor will only sell to people whom he knows. There is another class of illicit dealers who take in lodgers, to whom the liquor ostensibly belongs for their private use; and if a seizure is made, the liquor is claimed by them. I have found some trace of this kind of evasion in Pittsburg (Pennsylvania), where beer would be served by the keeper of the lodging-house to the boarders, ostensibly without price, as part of their regular board.

† The Police Board, as well as the law courts, have the judicial power of cancelling licences for breach of the conditions printed on them.

‡ The figures include all but druggists' and special club licences.

It seems to be less certain that local option has largely decreased the whole amount of drinking and of drunkenness throughout the State than that it has had this effect in the prohibitory portions of it. It certainly is thought by some, whose opportunities for observation give weight to their opinion, that while the law has on the whole increased the number of teetotallers, it has also tended to some extent to increase the drinking of those who drink, and that there is now a greater consumption of liquor and more drunkenness than existed before 1875. It is impossible to supply any conclusive evidence in proof or disproof of this opinion; but, if its correctness could be established, the fact would be the more remarkable since it is admitted that in places voting "no licence" the law is generally better enforced than the State prohibitory law used to be.

According to the Brewer's Handbook, the consumption of beer in Massachusetts was 1,017,191 barrels in 1888—89, and 953,467 barrels in 1889—90, a falling off of more than 69,000 barrels in the year following the introduction of high-licence. It is argued by the advocates of the new law that the Handbook would not be likely to over-estimate the shrinkage in the trade, and that it is safe to infer a still greater decrease in the consumption of spirits.

The question of drunkenness in Massachusetts has to be considered in connection with a recent change in the law respecting the punishment for that offence. Under the old law drunkenness was punishable by a fine of \$5, and, for a third offence, imprisonment; but since, in order to obtain a conviction for a third offence, the previous convictions had to be alleged in the complaint and proved at the trial, proceedings were rarely taken on the more serious charge. In 1891 the pecuniary penalty was abolished at the instance of the Massachusetts Prison Association, who argued that the State  
They include "off" as well as "on" licences, and also brewers' and distillers' licences. In 1892 the whole number of "on" licences was 680.

had no moral right to increase its revenue by fines, unless it was proved that they were of some use in diminishing crime; that the fine for drunkenness did not in fact deter men from becoming drunk; that the system of imposing a \$5 fine in every case led to a mechanical administration of the law undesirable in the interests of the public at large, and of the drunkard himself, and in particular unjust in very many cases to his family, who really paid the fine and bore the punishment—being deprived of money which they could not afford to lose, while the offender himself suffered little, and was not deterred from repeating his offence. If the fine was not paid, he went to prison for thirty days; and a man has been known to spend in a single year eleven months in prison as the result of eleven convictions within the year for drunkenness. Another case was mentioned of a man who had been committed to jail 140 times for that offence.\* The fine, moreover (it was argued), tended to pauperise the drunkard's family, and was therefore burdensome to the State, as well as unjust to the relatives. These considerations induced the Legislature to abolish the fine, and in substitution for it the power was given to sentence the drunkard to be imprisoned for any term not exceeding twelve months,† or to be committed to a reformatory, with the proviso, however, that if he satisfied the court that he had not been twice previously convicted for drunkenness within twelve months, his case might be "placed on file," *i.e.*, practically dismissed.‡ The

\* Out of 25,000 committals to prison for drunkenness in 1890, 23,000 were for non-payment of fines. It is stated that in 1889 nearly 7,000 persons in Massachusetts went to prison for drunkenness who had been so committed from three to fifteen times each, and nearly 1,000 who had been committed from sixteen to one hundred times each.

† The absence of a minimum limit to the imprisonment was due (I was informed) to the representation of a Judge who urged that in some cases of drunkenness imprisonment for a very few days was a good deterrent. Minimum punishments are common in American statutes, less discretion in this respect being allowed the Judges than is usual in England.

‡ Some confusion seems to have arisen at first from an idea that it was

new law further provides that if a person arrested for drunkenness states in writing that he has not been previously convicted of drunkenness within twelve months, and the officer in charge of the lock-up is satisfied that the statement is probably true, he may release the prisoner pending investigation by the "probation officer." If, however, he does not exercise the power of release, and the statements are found to be true, the prisoner may be released by order of the Judge without being actually brought into court. If the officer exercises his power of release, and the statement proves to be untrue, it is his duty to proceed against the offender. Such are the main provisions of this Act, which also provides for a record being kept of all cases.

The release by the police of men arrested for drunkenness on recovering from their intoxication, without being brought into court, was a practice which to some extent had previously existed, and it is said that about two thousand persons were released in this way in 1890, but the practice first received legal sanction in the law of 1891.\* The objects of the new law are thus stated in the report of the second annual meeting of the Massachusetts Prison Association:—

"Its main purpose is to secure to each person arrested an intelligent and just judgment of his case. If he is one who offends infrequently, and is at other times law-abiding and at work, its purpose is, when he becomes sober, to release him out of court and to let him return to his home and work without the degradation of public exposure in the criminal dock. If he is a frequent or habitual offender, the law permits the court to impose such length of imprisonment as will protect the community from the danger of his degrading habit and give him the chance of reform, if reform is possible. To make this distinction possible, the courts are given not competent for the court to commit on the first or second offence, but it was afterwards well established that this was at the discretion of the court. The point was indeed expressly decided in December, 1892, by the Supreme Court in the case of *Commonwealth v. Morrissey*.

\* A police officer releasing a prisoner in this way, prior to the passing of the new law, ran some risk of an action for false imprisonment.

by the new law records and officers whose duty it is to investigate the cases, and report the facts on which intelligent judgments can be based. The power of release out of court is placed, subject to certain checks and conditions, in the hands of the officer in charge of the places of custody. The law was carefully worded to make the power permissive and not mandatory, it being expressly intended to throw on the arrested man the burden of satisfying the officer that he was an infrequent offender, a decent law-abiding person, and so a proper subject for release."

In other words, the object is to discriminate between a man who is drunk and a man who is a drunkard.\*

The "probation officers" already referred to are an institution now forming an integral part of the judicial system of Massachusetts; and are a link between philanthropical and charitable work on the one hand, and the administration of the criminal law and police on the other. The germ of this institution is traceable to a benevolent shoemaker of Boston, named John Augustus, who from his frequent attendance in the municipal courts, and his interest in the prisoners brought up for trial, came to be recognised by the magistrates as a very useful, though an informal, assistant in the administration of justice; so that, when he appealed for the release of a prisoner, and undertook some responsibility for his future conduct, the case would frequently be "placed on file," that is to say, the man would be let go, and as long as he behaved himself would hear nothing more of the charge. After the death of John Augustus, the same work was taken up by

\* While on the subject of the punishment of drunkenness I may mention that in a supplement to the Report of 1888 of the Minnesota State Board of Corrections and Charities, there is a special report by Rev. M. M'G. Dana, D.D., on the English prisons, in which, speaking of the inconvenience and uselessness of repeated sentences of a few days, he quotes Mr. Horsley (the prison chaplain) as telling him that drunken women will ask, "What is the use of giving me a month? It will only be the same thing over again. It is cruel to be always letting me out only that I may return. Why can't the magistrate give me time in prison to get straight, or why can't the Government or somebody keep me here till I am cured?"

"Uncle" Cook, another benevolent citizen, who afterwards was appointed chaplain of the county jail. In 1878 the system thus inaugurated received legal recognition by the appointment under the State law of a "probation officer" for Boston, whose duties were to attend the criminal courts in the county, to investigate the cases of persons charged with crimes, and to recommend to the courts the "placing on probation" of such persons as might be reasonably expected to reform themselves without punishment. He was required to visit the offenders placed on probation, and to render such assistance and encouragement as would tend to keep them from again offending. In 1880 a law was passed authorising the appointment of a probation officer in each town and city in the State; and in 1882 the appointment of two additional officers for Boston was authorised. In 1891 the permissive law of 1880 was made compulsory, and it was enacted (Acts of 1891, chap. 356, section 3) as follows:—"Each probation officer shall inquire into the nature of every criminal case brought before the court under whose jurisdiction he acts, and may recommend that any person convicted by said court be placed upon probation; the court may place the person so convicted in the care of said probation officer for such time and upon such conditions as may seem proper."

An offender, whose case has in this manner been investigated, and who, after conviction, is placed upon probation instead of being sentenced to imprisonment, is for a time kept under the supervision of the probation officer, to whom he is required to report himself periodically; and if he fails to conduct himself satisfactorily or to comply with the conditions of his release, the court, on a report from the officer, will order him to be brought up, and may sentence him on the original charge.\* It

\* The practice of different courts varies as regards the average length of time during which offenders will remain on probation. In one case, a minimum of six months and maximum of a year is mentioned; in other courts, the ordinary period seems to be shorter.

is claimed that by this system much hold and much influence is gained over many of those who are not confirmed criminals, and who are less suspicious of the probation officer when he visits them in their homes than they would be if this work were undertaken by the police; that many a young offender is brought to his senses and turned away from crime by a timely remonstrance and warning from one who comes to him as a friend; and that this system, more than any other, leads to an individual examination of each case on its merits, and has the advantage of keeping people out of prison to the utmost extent compatible with the necessary repression of crime. A Judge, who gave evidence before a committee of the Legislature favourable to the new system of dealing with drunkards, declared that, since this office was created, he had never imposed a sentence on a man without asking the probation officer his history. The report for 1890 of the probation officer for Boston showed that, in one district of the city, 1,226 persons were placed on probation in that year, of whom only 33 did badly and were surrendered for sentence. In another district, the bad cases were 23 out of 287, and in a third, 58 out of 488.

It is objected that the amount of work thrown upon the probation officer by the new "drunk law" is more than he can properly do (at all events, in large cities), and takes him away from his other duties; and that, the work of investigation and identification being imperfect, offenders are let go who ought to be held. Some of the advocates of the new law recommended the appointment of special investigating officers, and a thorough investigation into the case of each prisoner arrested for drunkenness, before his release. Several, however, of the witnesses before the committee above-mentioned testified to the good results which the first few months had brought about. One witness, the Justice of the District Court of East Boston, mentioned that the whole number of the arrests for drunkenness in his district for about seven months had been 883—that



number including 716 persons who were arrested only once, 60 who were arrested twice, 13 three times, and 2 four times; and this large preponderance of single cases he considered to be an encouraging sign of the restraining operation of the new law.\*

A person taken up for intoxication may, therefore, be released either by the officer in charge of the police station, or by the magistrate, without being brought into court; or, if convicted, he may be placed on probation, *i.e.*, under the supervision of the probation officer, or his case may be placed on file. If sentenced to imprisonment, he may be sent for any time up to twelve months to jail, or he may be committed to a reformatory, in which latter case he is liable to be kept for two years.

The Twenty-Second Annual Report of the Commissioners of Prisons (for the year ending September, 1892) presents tables with details of the work of probation officers throughout the State in that year. The following extract from the report shows that the system has not been brought into full operation everywhere:—

“The tables show that nearly all the persons whose cases were put on probation were charged with drunkenness; in some of the courts, no other offence seems to be considered as a proper subject for such disposition. In one court, where there is a large amount of business transacted, only one case of any kind was put on probation in the year; and in one of the district courts in Plymouth County, none was put on probation—the Judge placing on file the cases that he did not desire to sentence, instead of putting the defendants in care of the probation officer.”

The whole number of persons placed on probation in the State during the year ending September 30, 1892, was 5,200, of whom the great majority—3,750—had been brought up for drunkenness.

\* A report of the evidence presented to the committee in favour of the new law is printed in a pamphlet entitled “The Punishment of Drunkenness. Remonstrance of the Massachusetts Prison Association against the Repeal of the Law of 1891.”

The reformatories of Massachusetts have been founded on the model of the Elmira Reformatory in New York State. The principle on which they are conducted is that of teaching the prisoners self-control by a minute system of rules governing their conduct in everything they do from morning to night, and by making their early release dependent on an exact obedience to the rules. An offender sent to a reformatory is liable to be kept, according to the nature of his offence, for two or five years; but it is possible for him, by good behaviour, to obtain his discharge in eight or eleven months. On his admission, he is placed in what is called the second grade. He is instructed in the rules which govern everything he does, and is warned that he can only rise to the first grade by a strict compliance with them; while misconduct will be followed by a descent into the third grade, involving the wearing of a scarlet suit, exclusion from all recreations and amusements, and other penalties. After five months of unvarying good conduct in the second grade, the prisoner is promoted to the first grade, in which the regulations are less irksome, and from which, if not degraded for misconduct, he is discharged at the earliest date allowed by the law. The system is said by its supporters to produce good results, many even of those who begin by showing themselves refractory, and are put into the third grade, being soon led to see that self-control is self-interest, and learning, in their struggle for promotion and release, habits which they had never previously formed, and which, once learnt, keep many of them out of prison for the future.

In addition to the prison and the reformatory, there is still another destination to which a certain class of drunkards may be sent. The law allows the committal of anyone who is subject to dipsomania or habitual drunkenness, if not otherwise a bad character, to a lunatic hospital, subject to the ordinary laws respecting lunatics. Such a person is not to be discharged unless it appears that he is cured, or that his confinement is no longer necessary for the public safety or his own welfare. In

the year ending September 30, 1891, the number admitted to these institutions as habitual drunkards was 167; while 143 patients belonging to this class were discharged, of whom 60 were reported as recovered, 38 much improved, 21 improved, 6 not improved, and 18 not insane.\* The inconvenience, however, of treating these cases in common with general cases of lunacy is such that, in 1889, an Act was passed for the establishment of a State hospital for dipsomaniacs and inebriates, to which such persons might be committed for two years. In 1892, this new hospital was not completed.†

Turning to the statistics of drunkenness and testing by them the effects of the law of 1891, we find, from the Report of the Prison Commissioners for that year, that the passing of this law was immediately followed by a large increase of arrests for assault, for disturbing the peace, and for being idle and disorderly, the probable explanation of which increase was, in the opinion of the commissioners, that the police, who formerly arrested every man whose intoxication was in the least degree offensive and made against him a complaint for drunkenness, now preferred some other charge. The statistics also show a considerable (though less marked) increase in the number of arrests for drunkenness in 1891, and a large increase in Boston in 1892, which is partly, perhaps, attributable to a greater disposition on the part of the police to arrest the *merely* drunk than under the old law when they were liable to a fine, and when the constable knew that he would have the trouble of appearing in court the next morning to prosecute the case. It seems certain also that, for a time at all events, an actual increase of drunkenness resulted from the idea which prevailed among the police and, to a certain extent, among the judicial authorities, as well as the public, that there was to be no punishment until

\* In addition to these cases, 230 patients were admitted during the year whose insanity was attributed to intemperance.

† On a subsequent visit to Boston in March, 1893, I found that this institution had been opened.

the third offence. As already noted, the error of this idea has been authoritatively laid down by the Supreme Court. The repeal of the law prohibiting the sale of liquor at bars also took effect in 1891, and caused an increase of drinking. As regards prison statistics, the number of commitments was found to fall off; but the prison population increased, owing to the sentences being generally longer than the thirty days for which prisoners were committed under the old law for non-payment of the fine.\*

Moreover, if the comparison is made between the numbers sentenced to definite terms of imprisonment, exclusive of those who (under the old law) went to prison merely because they were too poor to pay the fine, it will be seen that more than four times as many persons throughout the State were committed for drunkenness in 1892 as in 1890, viz. :—

Year ending September 30, 1890	...	...	2,116
" " " 1892	...	...	8,634

Of the latter number, 6,253 had sentences of less than six months, and 2,381 of six months or more—the latter including more than 400 sentenced for a year, and 186 sent to the reformatory on indeterminate sentences, under which they were liable to detention up to two years. In short, the new law, it is claimed, fills the prisons with habitual drunkards for long terms; the old law let most of them escape, and filled their places with occasional offenders who were imprisoned because of their poverty. From inquiries made in several towns, covering 17,500 cases of arrest for drunkenness since the new

\* The Twenty-second Annual Report of the Commissioners of Prisons gives the following figures :—

	1888.	1889.	1890.	1891.	1892.
Year's commitments to all prisons ... ..	30,683	34,094	33,290	27,795	17,861
Average prison population	5,508	5,860	5,798	5,548	6,406

law has been in operation, it was found that less than 12 per cent. of the whole were arrested a second time, and less than 5 per cent. of the whole a third time, during the year.\*

The increased number of arrests in Boston for drunkenness in 1892, as compared with 1891 (*see below*), is certainly startling. The increased percentage of non-residents would account for a fraction only of the increase.

The following figures show the total number of arrests in the whole State for drunkenness in several years, ending respectively on the 30th September :—

1885	...	...	...	...	...	35,480
1889	...	...	...	...	...	53,158
1890	...	...	...	...	...	52,814
1891	...	...	...	...	...	56,512
1892	...	...	...	...	...	70,682

The following table gives particulars respecting arrests for drunkenness in the city of Boston :—

Year ending November 30.	Number of arrests.	Increase or decrease per cent. compared with preceding year.	Percentage non resident.	Percentage of foreign birth.
1885	16,780	...	...	...
1888	23,044	...	...	...
1889	24,991	+ 8½	39	54
1890	23,970	- 4¼	37	53
1891	27,396	+ 14¼	39	52
1892	33,698	+ 23	41	53

## ARRESTS IN BOSTON FOR ALL OFFENCES.

Year ending November 30.	Number of arrests.	Percentage non-resident.	Percentage of foreign birth.
1889	40,066	31	49
1890	37,492	31	48
1891	41,132	32	48
1892	48,463	32	49

\* The above figures are from a printed statement furnished to me by the Secretary of the Massachusetts Prison Association, and are declared to be official.

The increase in the number of arrests for drunkenness in 1889 is partly due to the introduction, in the early part of that year, of the "police-signal and patrol-waggon system," enabling an officer, on making an arrest, to send for the waggon to take away his prisoner, without obliging him to leave his beat. The diminution in the number of arrests in 1890 is ascribed to the check placed in that year on the sale of liquor at bars, and, partly, to the discontinuance of the payment to the police fund of part of the fees for prosecutions instituted by the police. The circumstances of the increase in 1891 and 1892 have already been mentioned, with reference to the operation of the new "drunk law."

The high percentage of non-residents shown in the table of arrests for drunkenness in Boston is remarkable, and throws light on the question of the effects of local option in the case of a large city issuing licences and surrounded by districts which vote "no licence."

In 1890 the population of the twenty-five cities of Massachusetts was 1,327,164; that of the towns was 911,779. Of the 52,814 arrests for drunkenness in that year, 45,982, or 87 per cent., were made in the cities. The arrests for all offences in the same year throughout the State numbered 80,844 (more than 65 per cent. being for drunkenness). The proportion of drunkenness to other offences was higher in the cities than in the towns.

The total number of persons sentenced to imprisonment in Boston in 1890 was 33,290, of whom 77 per cent. were sentenced on conviction for drunkenness. In 1879 the number committed was 17,062, of whom 10,930, or 64 per cent., were for drunkenness.

It must be remembered that the number of persons who are arrested for drunkenness is always but a fraction of those who are found intoxicated in the streets. In this State, however, it is probable that the police are quite exceptionally prompt in arresting offenders.

The prohibition movement, as tested by the vote cast for prohibitionist candidates at recent elections, appears rather to be losing than gaining ground in Massachusetts. At Presidential elections the vote in this State was 10,000 in 1884; 8,700 in 1888; and 7,500 in 1892. At the elections for Governor the figures were as follows:—

Year.								Votes cast for Prohibitionist Candidate.
1885	...	...	...	...	...	...	...	4,714
1886	...	...	...	...	...	...	...	8,251
1887	...	...	...	...	...	...	...	10,945
1888 (year of Presidential election)	...	...	...	...	...	...	...	9,374
1889 (vote on prohibitory amendment to the Constitution taken this year)	...	...	...	...	...	...	...	15,108
1890 (381,000 registered voters)	...	...	...	...	...	...	...	13,554
1891	...	...	...	...	...	...	...	8,968
1892 (year of Presidential election)	...	...	...	...	...	...	...	7,067

These figures may probably be taken as to some extent indicative of the growth or diminution year by year of prohibitionist sentiment; but they do not represent the actual numerical strength of those who favour prohibition, since a great number of these, indeed a large majority of them, vote on all political issues as Republicans, while some are even to be found in the Democratic ranks. The difference of opinion between the "third party" prohibitionists and those who vote the Republican ticket is sometimes very acute and even bitter; the one side alleging that the Republicans are but lukewarm supporters of the cause, and that no further advance is to be expected from them; the other side pointing to the restrictive liquor legislation already gained through the Republican party, and urging that to desert that party is to ensure the success of the Democrats, the friends of the saloon.

The whole strength of prohibition in a State is called out only when the question of an amendment to the Constitution, affirming the illegality of the liquor traffic, is submitted to the

electors. Even then a certain deduction ought to be made for those who, while in favour of prohibitory legislation, disapprove the adoption into the Constitution, as a fundamental principle of government, of a law on which so much difference of opinion exists among educated men. The proportion of voters, however, who are moved by this consideration is probably small. It has been already stated that the constitutional question was put before the voters of Massachusetts in 1889, when the proposal was defeated by a large majority, about 131,000 to 85,000. Since then comparatively little active work has been done in the interest of State prohibition, and there seems to be at the present time a general acquiescence in the Local Option Law. While it is impossible to foresee how soon prohibitory activity may again exert itself, there appears to be no reason to think that the principle of prohibition is on the whole making any advance in this State; and, in the opinion of many who are well qualified to judge, it is losing ground.

The supporters of local, as distinguished from State, prohibition are far more numerous.

A comparison of the aggregate vote for "no licence" with the vote cast in 1889 in favour of the proposed constitutional amendment shows that those who favour the local suppression of the liquor traffic greatly outnumber the advocates of State prohibition. Cambridge, which voted for "no licence" in December, 1888, by a majority of 600, voted against the amendment by a majority of 2,600. Newton, which carried "no licence" by 1,210 votes, gave a majority of 50 against the amendment. In the smaller cities the constitutional amendment received a comparatively large amount of support. Nevertheless, all the cities except Somerville had majorities against it, and all the counties but four. The country districts supported it by a less overwhelming majority than might have been expected from their strong "no licence" tendency.



## CHAPTER XII.

## P E N N S Y L V A N I A .

(High-licence. Limitation of number.)

THE Brooks Law, passed in 1887, which regulates the liquor traffic in Pennsylvania, gives a wide discretionary power to the licensing authorities to refuse applications for licences; but there is no form of local option by popular vote; nor is any statutory limitation placed on the number of saloons.

The principle of local option has met with little success in this State. A law enacted in 1846, embodying this principle, was declared unconstitutional by the Supreme Court. A similar law, however, was passed for a single ward in Philadelphia in 1871, and after much litigation was declared constitutional, the former case being thus over-ruled. Thereupon a general law was enacted in 1872 giving an option to each county; and at the election in 1873 more than two-thirds of the counties voted for prohibition. It is said that the law was actively enforced; but it aroused so much opposition, and so much pressure against it was brought to bear on both political parties, that, despite all efforts to the contrary, it was repealed in 1875.\* The anti-liquor agitation was afterwards directed to the attempt to secure State prohibition. In 1889 a general vote on the question of a prohibitory amendment to the State Constitution was taken, when the proposed amendment was defeated by a very heavy majority.†

\* In the Session of 1893 a new Local Option Bill was brought forward, and obtained a majority in the House on the second reading; but it did not become law. It provided for a vote being taken regularly in February of every third year on the question, "For licence," or "Against licence." The vote was to be taken separately for each city, and for each county, exclusive of cities.

† For the amendment, 294,617; against, 484,644; majority against, 190,027.

Prior to the passing of the Brooks Law, much dissatisfaction was felt in Philadelphia, owing to the excessive number of saloons and the want of any legal means of suppressing a portion of them. In 1886 there were 6,059 licensed places in the city, or about 1 to 150 or 160 inhabitants; and not only was the total number out of proportion to any reasonable estimate of what was needed, but there was no way by which the preponderating sentiment of the inhabitants of any particular street or district could effectually express itself in favour of the closing of a saloon which was deemed an annoyance to the neighbourhood. Any citizen who paid the licence fee of \$50 was entitled to his licence, in the absence of proof of misconduct or bad character. In this respect the law of Philadelphia differed from that which governed the rest of the State, where some degree of discrimination was exercised in the issue of licences. The prime object of those who drafted the Brooks Law was to reduce the number of saloons in Philadelphia by constituting a judicial licensing authority with the fullest power to refuse all applications which it was deemed undesirable to grant, and to facilitate the intervention of public opinion in support of this restrictive power. The new law also raised the licence fees; but those who originated the measure regarded "high-licence" only as a secondary element in the reform which they advocated. Another evil which it was desired to suppress was the prevalence of what are known in England as "tied houses," and provisions were inserted in the Act for that purpose.

The following is a brief summary of the law:—

Retail licences may be granted annually in each county by the Court of Quarter Sessions to citizens of temperate habits and good moral character. An application for a licence must be refused whenever in the opinion of the court, having due regard to the number and character of the petitioners for and against the application, the licence is not necessary for the accommodation of the public and the entertainment of strangers or travellers, or that the

applicant is not a fit person. The applicant must be the only person pecuniarily interested in the business proposed to be licensed, and must not have an interest in the profits of any other liquor-dealing business in the same county; and his application must be supported by a certificate from twelve electors of the ward, borough, or township. If the licence is granted, the licensee is required to enter into a bond in the sum of \$2,000, with two sureties who must be freeholders of the same county, and must not be engaged in the manufacture of intoxicating liquor.\*

No licence may authorise the sale of liquor in a grocery store.

The licence fees are fixed as follows :—

In a city of the First Class ( <i>i.e.</i> , Philadelphia) ...	\$1,000
In a city of the Second Class ( <i>i.e.</i> , Pittsburg) ...	1,000
In a city of the Third Class ... ..	500
In other cities ... ..	300
In boroughs ... ..	150
In townships ... ..	75

In cities \$100, and in boroughs and townships one-fifth, of the licence fee goes to the county. The State takes no share. There is a separate scale of fees for wholesale dealers.

The police are required under heavy penalties to make returns to every Court of Quarter Sessions of all places where liquor is kept for sale or sold, whether licensed or unlicensed; and they are to make monthly visits to such places.

No debt incurred for liquor bought on credit by retail can be recovered at law.

The punishment for selling liquor by retail without a licence is fine from \$500 to \$5,000, *and* imprisonment from three to twelve months; for breach of the licence laws by a licensed dealer, fine from \$100 to \$500; on second offence, \$300 to \$1,000; and on third offence, \$500 to \$5,000, or imprisonment from three to twelve months, or both. And the court is required to revoke a licence for breach of any of the liquor laws.

Liquor may not be sold on an election day or on Sunday, or to

\* The Act originally required the sureties to be freeholders of the same ward or township, but this requirement was relaxed by a subsequent enactment. Another clause, directed against "tied houses," prohibited any person from acting as surety for more than one licensee; but this was struck out of the Bill.

a minor or person of known intemperate habits, or to a person visibly affected by drink, or to any person on a pass-book or order on a store; penalty, fine \$50 to \$500, and imprisonment twenty to ninety days.

Any place where liquor is sold in violation of the law is declared to be a nuisance, and may be abated by proceedings at law or equity. This provision affords a powerful means for enforcing the law, since it avoids the risks of failure before the grand or petty jury, and if successfully applied leads up to an injunction.

The licence law does not affect the sale of alcohol for scientific, mechanical, or medicinal purposes, but druggists may sell liquor only on a written medicinal prescription; one prescription to cover only one sale.

After some doubt, it was decided that there was no discretion under the Brooks Law to refuse a wholesale licence except for misconduct; but an Act passed in 1891 gave this discretionary power, and further forbade the consumption on the premises of liquor sold under a wholesale licence. This Act immediately reduced the number of *applicants* for wholesale licences from 1,600 to 563.

Under statutes antecedent to the Brooks Law, but still in force, the punishment for drunkenness is a fine of \$2, to be paid to the treasurer of the school district; any person furnishing liquor in contravention of the law is to be held civilly liable for all consequences of his act, and full damages may be recovered from him; and the relations of a drunkard may give notice to saloon-keepers not to sell to him. Anyone selling in contravention of the notice is liable to be sued for damages, from \$50 to \$500.

The chief merit of the Brooks Law is held to lie in the vesting of the licensing power in a judicial body of high position, with unlimited authority to refuse licences at their discretion. The Court of Quarter Sessions is composed of the higher Judges in the State. The Judges are elected for a term of ten years, and are therefore, to a great extent, removed from popular and personal influences. It commonly happens, when a vacancy occurs, that the two political parties will agree in the nomination of a candidate; so that, there being no contest, there is no

opportunity, when a Judge is put up for re-election, for paying off personal grudges. The following extract from the Tenth Annual Report of the Law and Order Society of Philadelphia shows the importance attached to this feature of the law :—

“Important as are the various provisions of the Brooks Law to the good order of our city, there is no one which effects so much practical good as that which commits the granting of licences to our *Judges* . . . the one class of men for whom our citizens, without distinction of party or sect, feel an unqualified respect and confidence as administrators of such a trust.”

The complete extent of the discretionary power to refuse licences is shown by the fact that in at least one county (out of between sixty and seventy) no retail licences at all are issued.

The immediate effect of the Brooks Law was a reduction in the number of licences in Philadelphia from 5,773 to 1,746 (70 per cent.), the latter number including about 400 wholesale licences.\* In 1890 there was an increase, due to the legal decision that the limitations of the Brooks Law did not apply to wholesale licences, and a larger issue of these licences accordingly ensued. The limit between wholesale and retail under the Pennsylvania law is one quart. When the court decided that wholesale licences could not be withheld, there was immediately a great increase in their number. Many applications were made by persons who had been refused retail licences, their real object being to do a retail business under a wholesale licence. In many instances they evaded the law by selling beer in quart mugs half full of froth, or by supplying cups or glasses, so that the purchaser of a quart of spirits could share it with others on the spot. In 1891, on the passage of the law conferring a discretionary power to refuse wholesale as well as retail houses, the number of licences again fell.

\* In 1888, when the new law first came into operation, there were 3,426 applications for retail licences. Of these, 1,340 were granted, 1,952 were refused, and 134 were withdrawn.

Turning to the criminal statistics of Philadelphia, we find that a comparison of arrests for drunkenness between the years 1887-8 and 1891-2 shows a diminution of more than 25 per cent., and the difference is still greater if allowance is made for increase in population. The returns, however, for the year immediately following the passage of the new law showed a diminution of arrests by about 40 per cent., so that the rate of improvement appears not to have been fully maintained.

The following table shows a somewhat close connection between the number of licences and the number of arrests for intoxication and disorderly conduct:—

Year.	No. of Licences. Wholesale and Retail.	No. of Arrests.	Increase or Decrease.
June, 1887, to June, 1888	5,773	32,974	...
„ 1888, to „ 1889	1,746	19,887	Decrease, 13,087
„ 1889, to „ 1890	1,739	21,969	Increase, 2,082
„ 1890, to „ 1891	2,092	25,810	Increase, 3,841
„ 1891, to „ 1892	1,791*	24,627	Decrease, 1,183

The same connection appears in the following statement:—

	Licences.	Arrests for Intoxication.
1890.—January to June (5 months) ...	1,737	8,587
1891.—January to June (5 months) ..	2,092	9,536
Increase ...	355	949
1890.—June to December (7 months)	2,092	16,074
1891.—June to December (7 months)	1,791	15,249
Decrease ...	301	825

\* At the Annual Licensing Meeting in 1892, about 1,890 licences were granted (1,388 retail). In 1893 there was a considerable rise to 2,181 (1,632 retail). The additional licences are said to be chiefly in the new and growing parts of the city.

The Board of Public Charities of Pennsylvania, in their report for 1888, observed, with reference to their visit to Philadelphia County Jail, "that, since the adoption of the high-licence law and the enforcement of the laws prohibitory to the sale of liquor on Sundays, the commitments to the county prison had decreased marvellously."

The returns of arrests for all crimes in Philadelphia in 1890 showed a large increase over the corresponding return for the previous year—a result declared by the superintendent of police, in his annual report, to be wholly accounted for by the increase of arrests for drunkenness and crimes directly attributed thereto, a great deal of this result being due to the licensing of many wholesale dealers who were in fact retailers.

In 1881, six years prior to the passing of the Brooks Law, there was organised a body known as the Law and Order Society of Philadelphia, for the purpose of securing the enforcement of the laws against Sunday trading and those relating to the liquor traffic, "and to encourage and assist the authorities in the maintenance and enforcement of the same."

The Society specially devoted its efforts, at the outset, to the suppression of the sale of liquor on Sunday and to children.

The open selling on Sunday was soon checked; the traffic carried on upon that day was driven into secrecy, and gradually became very much restricted. The Society was also in the earlier years of its existence instrumental in obtaining the revocation of the licences of liquor dealers who violated the law. On a special tour of inspection made on a Sunday in December, 1886, to sixty-nine saloons, thirty-nine of them were found to be absolutely closed, and, of the remainder, ten only were found to be openly violating the law. By this time the Society was undertaking a large number of prosecutions; and its proceedings were generally successful. The passage of the Brooks Law, and the consequent reduction in the number of saloons, brought about a further large diminution of Sunday drinking, as is shown by the following figures:—

Monday morning commitments for drunkenness on Sundays :—

1886—87	...	...	...	...	...	2,101
1887—88	...	...	...	...	...	1,263
1888—89	(first year under Brooks Law)					381
1889—90	...	...	...	...	...	621
1890—91	...	...	...	...	...	764
1891—92	...	...	...	...	...	711

The “drunks” are all sentenced to pay a small fine. If they fail to pay, they are locked up for twenty-four hours. Monday, formerly the heaviest day in the week, is now by far the lightest. These figures conclusively prove the great change which has taken place in regard to Sunday drinking, a change due in part to the exertions of the Law and Order Society prior to the passing of the Brooks Law, and in part to the operation of that law.\*

Children used to be much employed in “running the growler,” *i.e.*, bringing kettles and jugs to the liquor shops for drink for their parents. This practice is stopped by the new law.

It is the opinion of some that the Brooks Law has increased home drinking ; but this is an opinion which it is very difficult to verify.

The general opinion respecting the practical working and results of the law at Philadelphia appears to be on the whole favourable. The statistics already given undoubtedly seem to indicate an improvement in the condition of the town as regards intemperance and also as regards law-breaking, so far at least as the Sunday law is concerned. The following table shows the arrests for breaches of the liquor law in Philadelphia :—

Year.	Selling without Licence.	Selling on Sunday.	Selling to Minors.
1890	217	12	6
1891	514	5	4

\* Philadelphia is one of the few cities in the United States where guests in hotels are denied wine on Sundays.



If the foregoing figures are compared with the returns furnished by the Board of Public Charities of convictions for breach of the liquor law throughout the State, a wide discrepancy is indicated between arrests and convictions.

1887	Convictions for breach of liquor law throughout the State	199
1888	„ „ (including 18 in Philadelphia)	161
1891	„ „ (including 71 in Philadelphia)	275

It appears, therefore, that in 1891 upward of 500 arrests for offences of this class were made in Philadelphia to only 71 convictions, certainly a remarkable disparity. Many arrests are made and indictments found which are not tried for a long time, when witnesses have vanished ; and some are never tried at all. The criminal court is, or recently was, greatly in arrear with its business ; I was informed that more than a thousand indictments were awaiting trial. There has, moreover, been a great disinclination on the part of juries to convict, even on positive testimony. As an instance, I may mention a case which happened to be tried at the time when this subject was engaging my attention. The defendant was charged with selling liquor by retail, having only a bottler's licence. The evidence was overwhelming ; yet the jury remained out all night, and at last came to a compromise by finding a verdict of guilty, coupled with a recommendation to mercy.\*

\* In passing sentence the Judge said, addressing the prisoner :—"The jury have coupled their verdict of guilty with a recommendation to mercy. Whether that represents their conviction as to the extent of your culpability, or whether it represents a bridge by which they have reconciled their differences, I do not know. As they passed almost twenty-four hours coming to an agreement, I strongly suspect that it was a compromise. There is no doubt of your guilt. The offence is not a new one ; it was always an offence for a bottler to sell at retail ; hence you cannot plead surprise. The fact that you used your bottler's licence as a shield and cover to the illicit traffic makes it more culpable."

The Judge then referred to the fact that the growth of unlicensed places was on the increase, as the records of the court showed. For four years efforts had been made to exterminate "speak-easies," but without success, and he said that in his judgment no man after four years' warning could violate this law without doing so deliberately. It was a deliberate, continued, and

In Philadelphia, as in most cities of the United States, the dependence of the law on an active public opinion for its efficient enforcement is manifest; and public opinion does not here appear to call for more than a moderate degree of vigour in the prosecution of violaters of the liquor law. The unwillingness of juries to convict in liquor cases is no uncommon thing.\*

Moreover, national as well as local political exigencies tend to discourage great activity in this direction. If, for example, the anti-liquor party of any State, supporting themselves on a Republican majority, show symptoms of proceeding to extremities, the word is brought to the Republican headquarters at Washington, through the agents of the liquor interest, that the party will be in danger of losing votes in other States unless the obnoxious movement is suppressed; and means are found accordingly to restrain it. For a mayor or other official to put his whole force into the suppression of violations of the liquor law, in defiance of his party, would appear an act of treason.

Whatever causes may have been at work, the beneficial change which at first manifested itself hardly seems to have been fully maintained. While a great improvement has taken place in Philadelphia in regard to Sunday drinking, and while statistics appear to indicate a considerable decrease of general drunkenness, as a result of restriction on the granting of licences, the law is still evaded to an extent which would be impossible, if the full endeavours of the police and executive were directed

sustained purpose to defy the law. If it had not been for the recommendation of the jury, he would impose upon the defendant the full penalty of the law, but in consideration of that he would reduce the sentence to six months and a fine of \$500.

A rule was taken on the defendant to show cause why his licence should not be revoked, and on the testimony adduced the Judge revoked the licence.

\* The gentleman who acted as prosecuting counsel told me of one case of this kind, in which the police evidence was ample for a conviction; and no evidence was offered *contra*; yet the jury acquitted.

to its enforcement. Quite recently, there is said to have been a considerable increase in the number of "speak-easies" (the term commonly used in this State to describe places where liquor is illegally sold); efforts were being made in the latter part of 1892 to reduce them, and a large number of prosecutions had been undertaken.\*

As regards the character of the licensed liquor-dealers, the new law operated beneficially. The Judges acted (especially in the early days) with great care and discrimination as regards applications. Latterly, there has been a tendency to relapse, in some degree, from the standard originally set up.† Objection is taken by some critics to the principle of selection in dealing with applications for licences, as being invidious and unfair; and it has been suggested that the licences should rather be put up to auction—the licensing authorities merely fixing the number to be issued, and exercising a right of veto in the case of any person whose character might be objectionable.

In Pittsburg (population 238,500)—the second city in the State—the liquor law is said to be well enforced, speak-easies being now comparatively scarce, and their business a precarious one. In 1889, it was believed by the police department that there were nearly 800 such places in the city. In 1890, between 300 and 400 illicit liquor-sellers were prosecuted and punished in the first police district alone. They were proceeded against summarily for keeping disorderly houses—a procedure which, being speedier and surer, was deemed more effective than that by indictment for breach of the liquor law, which, in case of conviction, would have involved a sentence of imprisonment.

\* The detection of these "speak-easies" is often a difficult matter—customers being admitted only by pass-words or private latch-keys.

† A correspondent in Philadelphia writes to me in April, 1893:—"Just now there is a disposition on the part of the Judges in this city to grant licences very freely. Some persons think that the Judges are doing this because they do not like the business, and want the people to take it out of their hands and put it into the hands of an Excise Commission." For the number of licences issued in the last two years, *see* p. 230, note.

A large number of the offenders were women having families dependent on them. Since that period, there seems to have been no great amount of law-breaking, either on the part of licensed dealers or through speak-easies. The trouble from the latter source arises mainly on Sundays, when the licensed premises are closed. The superintendent of police, in his annual report, dated February 1, 1892, stated:—"The liquor laws have been rigidly enforced, and there has been a notable falling-off in violations of the same. Club-houses are being conducted in an orderly and quiet manner, and jug-houses and speak-easies have been almost wholly eradicated. There are, however, a few speak-easies springing up, on Sunday especially, and which require constant vigilance to suppress. They are usually carried on by widows seeking to secure a little money for the support of themselves and children. . . . The admirable distribution of licences by the Licence Court has done much toward eradicating the illegal liquor traffic, as the saloons are fairly distributed and sufficient in number for the accommodation of the drinking class, and, consequently, there is no occasion or illegal liquor-selling." In the report for the preceding year, also, the condition of fair immunity from speak-easies was attributed, in part, to the fact that the Licence Court had increased the number of retail licences from 92 to nearly 300.

Complaint has been made in Pittsburg of the mischief done by the "jug" trade carried on under a wholesale licence.

The figures following are taken from the official reports of Pittsburg:—

	Year ending January 31.		
	1890.	1891.	1892.
Arrests—total:—			
Drunk ... ..	5,222	19,449	21,800
Disorderly ... ..	5,448	6,676	6,910
Retail licences ... ..	92	7,442	7,732
Police force, all ranks ... ..	271	nearly 300	...
		304	311

The chief of the department of public safety in Allegheny (population 105,300), in his report for 1891, urged that a greater number of licences should be granted by the court—a course which he thought would largely diminish the number of speak-easies, and facilitate the work of the police department in its endeavour to stamp them out. The police had been newly organised in that year, and the new superintendent reported that, on taking office, he had found a vast amount of illegal liquor-selling. At the present time, I am told that the law is fairly well enforced.

## ALLEGHENY.

	Year ending February 28, 1890.	Nine months, April to December, 1891.
Arrests—total :—	3,091	3,730
Drunk ... ..	794	956
Disorderly ... ..	1,472	1,911
Selling without licence ... ..	14	...
Police force, all ranks... ..	86	113

The census returns show that insanity prevails in Pennsylvania to about the same extent as in 1880—the ratio of the insane to the whole population being as follows :—

1880	...	...	...	...	...	...	1 to 615
1890	...	...	...	...	...	...	1 to 620

There has, therefore, been a very slight proportionate decrease of insanity during the last decade. Of 1,726 patients admitted in 1891 to the various institutions for the insane, the insanity of 111 was attributed to alcoholism or intemperance.

The number of "indoor" paupers in the State on September 30, 1890, was 9,113; on the corresponding day in 1891, the number was 9,211. Of 12,452 adult paupers admitted during 1891 (an increase of 628 as compared with the preceding year), 1,347 were returned as abstainers, 2,573 as moderate drinkers, and 1,289 as intemperate. Of the habits of more than one half of the whole number no information is given.

## CHAPTER XIII.

MINNESOTA AND NEBRASKA.

(High-licence.)

*Minnesota.*

HIGH-LICENCE and local option are the distinguishing characteristics of the liquor legislation in this State. In one of its cities also the trade has been circumscribed in a special manner, which does not appear to have been adopted in any other place in the country. Minnesota has more than usually stringent laws respecting the forfeiture of licences for misconduct; and a scale of increased punishments on repeated convictions for drunkenness has recently (1889) been enacted.

The local option law is capable of only partial application, being restricted to the rural portions of the State. It provides that the voters of any incorporated village or municipal township may determine for themselves the question whether licences for the sale of intoxicating liquor as a beverage shall be granted or not. On the petition of ten or more voters the vote is to be taken at the next ensuing annual election, and, if the majority is against licence, none can be granted, except for medicinal or mechanical purposes. If the majority is in favour of licence, the village council is (in the case of an incorporated village) made the licensing authority, to the exclusion of the Board of County Commissioners. It is not easy to ascertain to what extent throughout the State such votes have been taken. The State Government takes no share of the licence fees, and is therefore not interested in the question; nor is a general return made to any authority. There appears to be among many of those who favour advanced anti-liquor legislation a tendency rather to consider this measure of local option as being too inadequate to be of much value than to exert any organised efforts for making the utmost

possible use of it. In not a few communities, however, "no-licence" votes have been carried, and local prohibition is the law, but I am not able to give the number of such places, nor any near approximation of their proportion to the rest of the State. A leading minister of religion in one of the chief cities, keenly interested in social questions, told me that the local option law, such as it was, had had little effect worth mentioning. Apart from the operation of this law, however, there is a certain number of municipalities which do not in fact issue licences. It is said that an effort will be made to secure the passing of a new measure providing for local option by counties.

The licence law may be briefly stated as follows :—

Applications for licences have to be published, and objections heard. If the applicant appears to have violated any of the liquor laws of the State or municipality within a year previous to the application (or, as regards some offences, within five years), the licensing authority, *i.e.*, the Board of County Commissioners, or the governing body of any municipal corporation, is to refuse to grant the licence. The applicant must enter into a bond in \$2,000, with two freeholders of the county as sureties.

The licence fee in cities of 10,000 inhabitants and upwards is fixed at \$1,000, or such higher sum as the city council may prescribe ; elsewhere \$500, or such higher fee as the local authority prescribe.

Registered druggists may dispense intoxicating liquors on medical prescription without any licence, for consumption off the premises. Physicians who give prescriptions for the purpose of evading the liquor law are liable to be fined.

Licensed premises, except hotels, are to be closed from 11 p.m. to 5 a.m. ; and conviction of violating this rule involves forfeiture of the licence, as well as a fine.

No liquor may be sold to a minor, student, or drunkard. Notice not to sell may be given by relatives and employers.

The penalty for selling without a licence is a fine from \$50 to \$100, and imprisonment from thirty to ninety days. Prosecutions may be taken in a summary manner before a municipal court or justice of the peace, in the same manner as for violations of municipal ordinances or bye-laws. Special additional penalties

are enacted for the use of certain devices known as the "blind pig," "hole-in-the-wall," etc.

The county attorney is required to prosecute all violations of the Act. The owner as well as the occupier may be held liable, if the law is broken with his knowledge.

Every sheriff and constable is required to arrest offenders ; and any judge, officer, or constable, who wilfully neglects or refuses to do his duty is to be deemed guilty of a malfeasance in office and disqualified from holding it, and is to be fined.

The licensing authority may revoke a licence on proof to their satisfaction that the licensee has violated any of the liquor laws or any of the conditions of his licence. On revocation for selling to a minor, or drunkard, or after notice forbidding such sale, the offender is disqualified for five years from being again licensed, in all other cases for one year. A licence also becomes *ipso facto* void upon conviction in any court for selling to a minor, habitual drunkard, or intemperate person after notice. The court, on convicting anyone of an offence under the liquor law, is required to certify the conviction to the licensing authority.

The penalties for becoming voluntarily intoxicated are :—First offence, fine \$10 to \$40, or imprisonment ten to forty days ; second offence, imprisonment thirty to sixty days, or fine \$20 to \$50 ; subsequent offences, imprisonment sixty to ninety days.

It will appear, from what has been said, that the principle of local option has had but partial recognition in the law of Minnesota, and in practice has met with no large measure of attention or development. High-licence, on the other hand, has for some years received, and is receiving, a fair and sustained trial ; and few States offer a better field for observing this system in its most favourable aspect. From inquiries made in the two leading cities of the State, I believe it may safely be said that its operation has proved on the whole satisfactory in the estimation of the majority of those who have had the best opportunity of observing its effects, and who are most interested in the suppression of the evils which it was intended to meet ; and that (apart from the movement already mentioned for extending the right of local option—a movement affecting the smaller towns and the country districts, but hardly



likely to affect the principal centres of population) there are few States in which there is less appearance of an active disposition to agitate for any considerable changes in the existing liquor laws.

The city of St. Paul, the official capital of the State, with a population, according to the census of 1890, of 133,000, had, at the commencement of 1893, 362 saloons, each paying a licence fee of \$1,000. The population at the present time is claimed to have reached 150,000; but in the rapidly-increasing cities of the western and central States there is always a tendency among the inhabitants to seek, by magnifying the growth of their population, to increase the importance of their city. The numbers have, however, undoubtedly made a considerable advance since 1890, and it may be roughly estimated that St. Paul has slightly less than 400 inhabitants for each of its saloons. In a considerable residential section of the city, pursuant to an understanding entered into when that area was first included in the city limits, no licences are allowed. In the other residential parts, petitions by the inhabitants would have weight in inducing the licensing authority to withhold a licence; and on proper representations being made they would refuse to issue one in the immediate neighbourhood of a church or school. The law is strict as regards forfeiture and disqualification on proof of misconduct; and, on a representation from the police that a licence ought not to be granted, it probably will be withheld. In other respects no limitation is placed on the number of licences in the business parts of the city; anyone may obtain a liquor licence who has not misconducted himself, and is willing to pay the fee. If a licence has expired before a new one has been issued, or if a man wishes to open a new saloon, the police will sometimes allow business to be carried on for a few weeks on deposit of the fee, and pending the issue of the licence. This practice, which no doubt is irregular, gives the police a very close control in such cases; and a saloon which was being run in this way on sufferance had, at the time of my visit, been summarily closed

by the police on account of disorderly practices. In another case, on the expiration of the licence, permission to continue till a new licence was issued was refused, and the saloon closed, on account of liquor having been sold to minors. The police would in this case oppose the application for a renewal.

The question of Sunday selling is within the jurisdiction of the local authorities, and the municipality of St. Paul does not attempt to prohibit it.

Minneapolis, with a population in 1890 of 165,000, the largest city in Minnesota, having outgrown its "twin city" St. Paul, has, in addition to high-licence and the other provisions of the State law, to which it is equally subject, a special enactment of its own, which has still further contracted the number and situation of saloons, and appears to have yielded specially favourable results. The "Patrol Limit" Law of Minneapolis, passed by the State Legislature in 1884, at the desire of the city, prohibits the grant of liquor licences outside the limits of a certain defined area, which includes only the central business part of the city; and this restriction applies equally to hotels which supply liquors to their guests, as to mere dram-shops. In January, 1893, the number of licences was 274, all strictly confined within the "patrol limits." Few cities in the United States have increased so rapidly and continuously as Minneapolis. In 1880 its population was 47,000; in 1890 it had grown, according to the national census, to 165,000. At the present time, the sanguine local estimate raises it to 200,000. The existing ratio of liquor sellers to population may be set down at somewhere about 1 to 700.\*

Efforts have been made, and are likely to be repeated (as seems only natural, in view of the great extension of the city as a whole, and also of the business centre to which it was

\* The Minneapolitans allege that the census of 1890 did them scanty justice, the enumeration having been made at midsummer, when many of the inhabitants were absent on pleasure, or in agricultural occupations. The local estimate is probably a little above the mark.

intended to confine the saloons), to get the patrol limit extended. Hitherto, however, the original area has been kept intact, and there is great unwillingness among a large portion of the community (not confined to extreme anti-liquor partisans) to make any relaxations in favour of the saloon interest.

The patrol limit law originated in a movement on the part of the inhabitants of the eighth ward, who undertook, if no saloons were licensed in that ward, to provide for the maintenance of the poor of the ward. This arrangement went into operation; other parts of the city became desirous to get rid of their saloons; and so an agitation grew up which resulted in the passing of the law. The eighth ward still continues to maintain its own poor, and the inhabitants of the ward will, on this ground, strenuously oppose, so far as they are concerned, the admission of saloons, whatever changes in the patrol limit may be considered in other directions.

The process of reduction in the number of saloons has gone through three stages in Minneapolis. The first stage was reached in May, 1884, when the patrol limit law was established. Its immediate result was the closing of 95 saloons, the total number being reduced from 535 to 440. Next, the licence fee was raised by an ordinance of the City Council from \$100 to \$500, and the number again fell to 334, at which figure it stood when the new State high-licence law went into operation in 1887. By this law, which raised the fee to \$1,000, the number of saloons was brought down to the lowest point, 230; since rising slightly with the growth of the population to the present figure. Questioned as to the results of these changes, the judge of the Municipal Court declared that, though arrests for drunkenness had successively increased in the years 1885-87, the records of the police-court showed a remarkable diminution of the small crimes and misdemeanors directly attributable to drunkenness. It was found that the low "doggeries" could not exist under high-licence.\*

\* *St. Paul Pioneer Press*, February 17th, 1888.

A gentleman, who was formerly a reporter for one of the newspapers in the Municipal Court, where he had exceptional opportunities of observing the condition of the town in regard to crime, assured me that the institution of the patrol limit had had a very marked effect on the business in the police-court, and had greatly lightened the reporter's duties. The change had been especially notable in one particular quarter of the town, a residential district of the lower sort, inhabited by many of the workmen employed in the great factories. It had acquired so bad a character that it was known as the "Hub of Hell." From this region came frequent calls for the patrol waggon; much drinking went on in it; saloons were plentiful, and from them proceeded a vast amount of disorder and crime. The patrol limit law shut up nearly all these saloons, since all but a strip of this district lies outside the limit; and it has now lost its old title, and become a decent, orderly part of the city. This is only a more striking example of what has in a less degree happened in other parts. When a workman comes home in the evening, tired, he will not go far for a drink. If there is a saloon quite near his house, he is apt to stroll in and meet his friends; they treat one another, and thence comes the mischief. He is not likely to take a bottle of whisky deliberately home with him; that is not the custom of Americans, whose drinking is mainly a social habit. A "sullen drinker," one who will go home and drink for the sake of drinking, is an uncommon specimen, and is looked on as a bad case. Whatever may be the effect of absolute prohibition in tending to promote home drinking, it is certainly the opinion of persons in a position to form a trustworthy judgment that the Minneapolis system does not lead to this result in any appreciable number of cases; and the balance of opinion appears to be strongly favourable to the system, on the ground already mentioned, that it removes a source of temptation from the working-man after his return home from his day's labour. It is also very favourably considered as keeping people in general,

in the residential portions of the town, and especially young people, out of the way of bar-rooms. The custom of treating accounts for a large proportion of the cases in which intoxicants are used to excess, and in this way the proximity of the saloon has (especially to the young) peculiar dangers.

Another beneficial effect of the patrol limit law is to lighten the labour of police supervision, and render it at the same time more efficient. Relieved of keeping watch over the saloons, and those who go in and out of them, in all but the central section of the town, the police are able to control this section more closely, and are consequently able with more certainty to lay hands on crime and disorder. To that extent an increased number of arrests naturally follows, a point which must be kept in mind in scrutinising the statistics of crime for the purpose of testing the results of the system.

The following tables contain statistics relative to St. Paul and Minneapolis, as published in the official reports :—

## ST. PAUL (population 133,156).

	1886.	1887.*	1888.†	1889.	1890.
Number of licences ... ..	635	763	361	385	392
Arrests :—					
Drunk ... ..	1,028	1,885	1,755	1,796	1,616
Drunk and disorderly ... ..	434	609	613	638	470
Violation of liquor law (selling to minors, without licence, on Sunday, etc.)..	163	60	76	59	39
Total arrests for all offences ...	4,855	7,546	6,862	7,098	5,277
Committed to the City Workhouse:					
Drunk ... ..	...	...	...	867	778
Drunk and disorderly ... ..	...	...	...	282	221
Police force ... ..	...	...	...	...	178

Since 1890, the number of licences has been reduced ; at the beginning of 1893 there were only 362, and the sittings of the Licence Committee of the municipality, which commenced

\* Fourteen months.

† High-licence, \$1,000. Previously it had been \$100.

in that month, were expected to result in a further slight reduction.

## MINNEAPOLIS (population 164,738).

	1887	1888.	1889.	1890.	1891.	1892.
Number of licences ...	...	230	...	...	...	274 <sup>?</sup>
Arrests :—						
Drunkenness ..	2,619	...	...	2,300	1,809	1,916
Disorderly conduct	...	...	...	456	440	...
Violation of liquor law (selling to minors, on Sunday, without licence, etc.) ...	...	...	...	112	63	...
Whole number of arrests	...	...	...	5,216	5,156	5,866
Police force* ...	...	...	...	217	225	...

## AVERAGE NUMBER OF PRISONERS IN THE CITY WORKHOUSES OF ST. PAUL AND MINNEAPOLIS.

	St. Paul.			Minneapolis.		
1888 ...	...	145	...	...	75	...
1889 ...	...	161	...	...	113	...
1890 ...	...	129	...	...	98	...

The decided falling-off in the numbers in 1890 "appears" (according to the report of the Secretary of the Board of Corrections and Charities) "to be a part of the general decline of the criminal population of the State." The practice of repeatedly sentencing prisoners to imprisonment for a few days is strongly condemned in the report as being worse than useless.

## PRISON CENSUS.

	December,			
	1885.	1888.	1889.	1890.
Prisoners serving sentence throughout the State ...	652	785	856	742

In this part of the country most of the opposition to temperance legislation seems to proceed from the Germans.

\* Compared with most other cities in the United States, Minneapolis has a relatively small police force.

The liquor trade is mainly in their hands ; and they are very tenacious of their opinions and habits. The Irish are said to be generally more temperate here than in New York, Boston, and elsewhere in the East, and are not so much engaged in the liquor trade ; they appear to have fallen upon different conditions of life in the West, and to be subject to different moral and material influences. Many of the Scandinavians also, in the second or third generation, are not merely temperate, but active workers for temperance, and they form an excellent element among the population of foreign origin, adopting readily the laws and customs of their fellow-citizens by adoption. A movement which is in progress, to obtain a reduction in the licence-fees, receives its support mainly from the Germans.

The merits claimed for the high-licence system of Minnesota are : that it suppresses the worst and lowest class of saloons ; that it reduces the number in the outlying and residential parts of the city, because there is not business enough to repay the licence-fees (high-licence thus producing, to some extent, the results directly secured in Minneapolis by the patrol limit law) ; that it concentrates the trade in the business centre of the town, where the force of police is most numerous and best able to control it ; that it diminishes the influence of the saloon in politics ; that it is a security for good conduct on the part of the licence-holders, through the fear of forfeiture ; and that it secures to the authorities the co-operation of the licence-holders in enforcing the law against unlicensed dealers. Doubts have sometimes, and in some places, been expressed about the extent of such co-operation, and it is sometimes declared to be altogether a delusion. I am, however, assured on the best authority that in Minnesota the police do really get information from this quarter of the existence and locality of illegal grogeries—the source of such information being in all cases kept secret. Unlicensed grogeries (“blind pigs,” as they are called) do undoubtedly, to some extent, exist. In that district of St. Paul where no licences are allowed, I was informed that a secret trade

was known to be carried on. But, though such violations of the law are not entirely suppressed, I was assured that the police were, on the whole, able to keep a pretty close hold on this business, and that there was no great amount of it.

It is very difficult, if not impossible, to obtain any precise answer to the question whether high-licence has produced any marked effect on the aggregate consumption of alcoholic drinks. The amount of liquor actually consumed in any given place is an unknown and unascertainable quantity. A system which largely diminishes the sources of supply, and increases the average distance separating the saloon from its customers, would seem likely, *à priori*, to have some effect in contracting the amount of business done by saloon-keepers; and the social customs of Americans, before referred to, would tend to strengthen this expectation.

If recourse is had to the statistics of drunkenness and crime for light upon the question of actual results, the returns above given from St. Paul and Minneapolis do not appear at first sight to supply a basis for any positive conclusion. In St. Paul, the first year of high-licence (1888) did not yield any diminution in the arrests for drunkenness; indeed, considering that the figures for the preceding year cover fourteen months, there seems to have been a slight increase. In the following year a further increase appears; but in 1890 there was a considerable fall. Two facts, however, affecting any inference to be drawn from these figures, must be taken into account. One is the great and constant increase of population, an increase supplied by foreign immigrants, who for the most part are not teetotallers. The "twin cities" are the new home of a great number of Scandinavians, Germans, and Irish. In Minneapolis more than one-third of the population is of Scandinavian origin. There is, I believe, a larger proportion of Scandinavians in Minnesota than in any other State of the Union.\* The Germans, though confirmed beer-drinkers,

\* The Swedes are the most numerous section in this State. In



seldom get into trouble on this account. Prolonged residence in America leads a considerable proportion of the Swedes, Danes, and Norwegians, after a time, to adopt principles and habits of abstinence ; but on their arrival in the country of their adoption many of them are hard drinkers, pure alcohol being a common beverage with them. The drinking habits of the immigrants would naturally tend to keep up or to increase the returns of arrests for drunkenness. The other fact alluded to is the increased efficiency of the police control which directly results from the reduction in the number of drink-shops, leading to a higher ratio of arrests to offences committed. The partisans of high-licence claim this as one of the most prominent advantages of the system ; but obviously those whose attention has not been drawn to this fact may be led by its effects upon statistics to draw unfavourable inferences.

The general aspect of both cities is orderly, and a drunken man will very rarely be met with on the streets.

That high-licence has, in Minnesota, actually brought about a diminution of drinking and drunkenness, at least in the chief centres of population, is, I believe, the decided opinion of the great majority of those best able to judge. The extreme advocates of prohibition are strongly opposed to the system, both on general grounds of morality, and especially on the ground that the public revenue derived from it perverts the taxpayer, and constitutes the most formidable of all obstacles to the furtherance of their policy. They deny that high-licence diminishes drinking, and urge that it only serves to concentrate the trade and increase the profits of brewers and distillers. In proof of this contention they quote cases of persons interested in the trade who have been supporters of high-licence. I do not propose in this place to pursue further

Wisconsin (which also attracts many immigrants of this race) the Norwegians preponderate.

the general question of the merits and failings of this system, a task which can be more usefully undertaken after a separate examination has been made of its working in the several States which have adopted it. I merely record here my belief that, so far as Minnesota is concerned, the drift of unbiassed public opinion—aside from those who are either uncompromising advocates of prohibition on the one hand, or manufacturers or sellers of intoxicating liquor on the other—is, after an experience of several years, favourable to the view that high-licence has produced practical good results, and is on the whole the best system to be adopted under the existing conditions of the community.

While this system has closed many saloons in the chief cities, it has also materially affected the trade in some of the smaller towns, where there is less custom, and where consequently it is less easy to make a sufficient profit on the business after repaying the outlay on the licence fee. A number of facts and opinions collected from representative Republicans in different parts of the State, after eight months' experience of high-licence, were published in the *St. Paul Pioneer Press* (April 4th, 1888). The opinions were, with very few exceptions, favourable to the new law, though in some cases further restrictions were advocated ; and in a few places it was thought that not much difference in the amount of drinking had resulted. In one town the saloons had been reduced from twenty to ten, in another from five to three, in another from three to one, in another from six to four. In others large reductions were recorded.

The census returns credit Minnesota with a remarkably low proportion both of convicts and of paupers. Its prison population (including penitentiaries and county jails) is absolutely the lowest in proportion to population of any of the twelve States which are grouped together in the census under the heading "Northern Central," the ratio being 492 per million inhabitants. The States ranking next to Minnesota

in the group are Iowa, Wisconsin and Nebraska, while the worst return comes from Kansas—946 per million.\*

Of paupers in almshouses (*i.e.*, “indoor” paupers), Minnesota is credited with 280 per million of the population, this being a lower return than that of any State in the group, with the exception of the Dakotas and Nebraska.

In regard to insanity the case is different, Minnesota showing a ratio higher than the average of its group, and nearly as high as that of the whole country. The victims of insanity are supplied in a degree disproportionate to their numbers by the Scandinavians. This race, forming 16·5 per cent. of the inhabitants of the State, furnishes 28 per cent. of the inmates of insane asylums, while at the same time it furnishes only 8·8 per cent. of the convicts.† The following table shows a constantly-progressive increase of insanity in this State during twenty years:—

	1870.	1875.	1880.	1885.	1890.
Ratio of insane to population ...	1 in 2,136	1 in 1,375	1 in 1,078	1 in 845	1 in 666

\* See the table on p. 19. The foreign-born inhabitants of Minnesota are 38 per cent. of the whole population; they contribute 33 per cent. of the State prison population, and 61 per cent. of the insane. Of eight representative eastern and central States (Minnesota, Wisconsin, Iowa, Michigan, Illinois, Ohio, Pennsylvania, and Massachusetts), Minnesota is the only one in which foreign nationalities furnish less than their share of State prison convicts. Scandinavians and Germans show a low rate of criminality in all these States. English-speaking immigrants furnish on the average one-third more than their share. The same general facts hold good as regards convicts in city workhouses. (*See Report of State Board of Corrections and Charities of Minnesota for 1888, pp. 72—4.*)

† It has been suggested that the change of life, and greatly improved living, with better material conditions generally, have tended to produce affections of the brain among the Scandinavians. Farming is their usual occupation.

The corresponding ratio in six other States is as follows :—

Massachusetts	...	...	...	...	1 in 417
Pennsylvania	...	...	...	...	1 in 726
Michigan	...	...	...	...	1 in 874
Indiana	...	...	...	...	1 in 909
Illinois	...	...	...	...	1 in 645
Wisconsin	...	...	...	...	1 in 550

The Secretary to the Board of State Corrections and Charities told me that he attributed the high return for insanity in Minnesota in part to the fact that all their insane (except those kept in their own families) were in the State asylums, and that the return was probably more complete than elsewhere.

### *Nebraska.*

This, though one of the more newly-settled States, was the first to attempt to deal with the liquor problem by means of a high-licence fee. This law has now been in operation since 1881.\* In the first year, when Omaha had a population of about 30,000, the number of saloons in that city was reduced from 152 to 80; and, at the present time, they are considerably fewer in proportion to the population. In earlier days the number was still greater. An old resident told me that, with a population of about 15,000, the saloons numbered 220. As the pioneer in this form of legislation, Nebraska has attracted much attention, and widely divergent opinions have found expression regarding the results of the experiment. In 1890, a popular vote was taken on the question of adopting prohibition into the Constitution, when the proposed amendment was rejected by 111,728 votes to 82,292.

Under the Slocum Law of 1881, a licence may be granted only on a petition—in an incorporated city or village, from thirty resident

\* The previous law, passed in 1858, allowed the County Commissioners to fix the licence-fee anywhere between \$25 and \$500, and cities could impose an additional amount not exceeding \$1,000. As a matter of fact, liquor-sellers in Lincoln had to pay \$1,000 from 1877.

freeholders, and, elsewhere, from a majority of them. The licensing authority in Omaha is the Board of Fire and Police Commissioners ; in Lincoln, the Excise Board ; in other cities, the City Council ; in incorporated villages, the Board of Trustees ; and elsewhere, the County Board.

Notice of the application for a licence has to be published ; and, if any objection is made to it, a day is appointed for the hearing, when, if it is proved that the applicant has violated the liquor law within a year, or has had a former licence revoked, the application must be refused. Otherwise, the licensing authority may grant the licence, "if deemed expedient." County Commissioners are not allowed to issue a licence within two miles of any city, except Omaha. The licence operates for not more than a year, and may be revoked by the licensing authority on conviction of violation of the law.

The licence-fee is fixed by the licensing authority, but may not be less than \$1,000 in cities with a population exceeding 10,000, or \$500 elsewhere. And the licensee is required, in every case, to enter into a bond in the sum of \$5,000 with two freeholders of the county as sureties. No one may be surety on more than one such bond.

The following offences and penalties are enacted :—

Selling to a minor—fine \$25.\*

Selling to an Indian, insane person, idiot, or habitual drunkard—fine \$50.

Selling or giving liquor to an Indian, not a citizen—fine \$1,000, or imprisonment, 2 to 5 years.†

Selling or keeping for sale without a licence—fine \$100 to \$500, or imprisonment not exceeding 1 month.‡

Selling liquor adulterated with strychnine, strontia, sugar of lead, or any other substance—fine \$100.

Selling on an election day—fine \$100.

The civil damage law in Nebraska is peculiar. It is enacted that—"The person so licensed shall pay all damages that the community or individuals may sustain in consequence of such traffic ; he shall support all paupers, widows, or orphans, and the expenses

\* A minor who falsely represents his age is also liable to punishment.

† By an Act passed in 1891.

‡ Home-made wine may be sold in quantities of not less than one gallon, without a licence. Warrants for search and seizure may be issued on sworn information, and, on conviction, the liquor is to be destroyed.

of all civil and criminal prosecutions growing out of, or justly attributed to, his traffic in intoxicating drinks." Such damages and expenses may be recovered by an action on his bond. On a person becoming a pauper by reason of intemperance, the Poor Law authorities may sue on the bond of any licensee who was in the habit of supplying him with liquor. In a suit against a licensee on account of acts done or injuries inflicted by a person under the influence of liquor, it is only necessary to prove that the defendant supplied liquor to him on the day or about the time when the acts were done or the injuries received. All fines are paid to the School Board, and the complaining witness is to receive out of the local funds under the control of the licensing authority a sum equal to one-fourth of the amount so paid.

Permits may be issued to druggists, subject to the general licensing provisions (but without payment of the licence-fee), for the sale of liquor for medicinal, mechanical, and chemical purposes. The licensing authorities of cities and incorporated villages, however, may by ordinance prescribe regulations for druggists. Every druggist is to keep a detailed record, open to public inspection, of his sales of liquor, and to report on oath half-yearly to the licensing authority. Penalty—fine \$20 to \$100, and imprisonment, 10 to 30 days.

Any person found in a state of intoxication is to be arrested, and, on conviction, fined \$10, or imprisoned not more than 30 days. But the punishment may be wholly or partially remitted, on his giving sworn information when, where, and from whom he received the liquor.

All vendors of liquors are required to keep their doors and windows unobstructed by screens or otherwise.

"Treating," or giving away liquor in any saloon or other public place where liquor is sold for consumption on the premises, is prohibited under penalty.

The law, of which a summary is given in the foregoing paragraphs, is peculiar in several respects. The requirement that, in the rural districts, an applicant for a licence must obtain the support of a majority of the freeholders in the district appears, at first sight, to be a far-reaching measure of local option, which it is in form. In practice, however, it has little or no operation, inasmuch as there are very few persons,

if any, desirous of setting up liquor shops in townships outside of incorporated villages. Such areas are very thinly populated, and would not support saloons paying a licence-fee of \$500. Outside the villages, therefore, the law is practically prohibitory.

In the cities and villages, an application for a licence has to be backed by thirty freeholders only; but the licensing authorities have unfettered discretion, and, where the public sentiment demands or allows it, they may refuse all applications. There are, in fact, many places in the State where no licences are issued. York County, for example, is or has been without a single licence; in Polk County none has ever been issued. The question of licence or no licence is sometimes made a direct issue in the election of commissioners, so that in its municipalities Nebraska has in fact, though not in form, local option.

The draftsman of the Slocum Law—a lawyer in Lincoln—assured me that, where no licences are issued, the law is generally well enforced. In his view, the plan adopted in Nebraska is more efficient as a measure of local option than the system of the direct veto—his argument being that a greater force of sentiment is required to elect a non-licensing board than to carry a direct “no licence” vote, because, in the latter case, people are apt to be influenced by pressure from women and extremists, and not to vote according to their own deliberate judgment, as they generally do in electing a licensing authority with discretionary powers. Therefore, when this authority refuses to grant licences, there is always a strong majority in favour of their action, and the law enforces itself. Fluctuations of public sentiment soon reflect themselves on the licensing board, and changes to and fro between licence and no licence are not very uncommon.

Nebraska has two large towns—Omaha, with about 150,000 inhabitants (140,450 in 1890), and Lincoln (the State capital), with nearly 60,000. There are only three other towns which in 1890 had populations exceeding 10,000. The western half of

the State is very thinly inhabited, and the State as a whole has only thirteen heads to the square mile.

In Omaha, 277 applications for liquor licences were made in 1891, and 251 licences\* were granted (besides 72 permits to druggists). This gives a ratio of one licence for nearly 600 people.

The following statistics relate to Omaha. Compared with most other cities, the return of arrests for drunkenness is remarkably low in proportion to the population :—

	1889.	1890.	1891.
Total number of arrests ... ..	8,449	8,113	7,281
Arrests for drunkenness (alone or combined with some other offence) ...	} 2,094	2,275 {	1,667 44
Arrests for violation of liquor laws ...			

It should be noted that the regular police force of Omaha is extraordinarily small, only 88 of all ranks in 1891. There were, in addition, 52 special constables employed apparently on permanent duty, and 93 more were appointed to assist in guarding the polls on election day; 50 also on another special occasion.

In Lincoln only about forty liquor licences are granted, considerably less than 1 to 1,000. I am not able to give any police statistics, but there is said to be, and doubtless is, very little drunkenness. An old resident told me that in the early days, when the population was only about 1,500, there were as many as thirty drinking places in Lincoln.

The same advantages are claimed for high-licence in this State as in Minnesota and other States which have adopted it. Most of the low dives, the hot-beds of crime, have been rooted out. Saloons are more respectably conducted; and licensees obey the law better themselves, and assist in suppressing the

\* This number includes wholesale as well as retail, hotels as well as saloons.



illicit trade. So far as my inquiries went, the law appeared to give great and general satisfaction. The common opinion appeared to be that it had proved the best liquor law in the United States. A clergyman of Omaha, who certainly was well acquainted with the social conditions of the town, and had a wide experience of men, expressed himself to me very favourably respecting the state of the town in regard to drunkenness, and said that he did not remember to have seen a drunken man on the streets.

A feature, in which I found special credit claimed for the law of Nebraska, was the provision requiring the licensing authority to refuse to renew the licence of one who had been guilty of any breach of the law. The fear of forfeiture is said to keep the liquor dealers on the alert as to their own conduct and that of their servants.\*

Much has been written and said for and against high-licence, with special reference to this State. Opponents of the Slocum Law have frequently quoted in condemnation of it the fact that Mr. H. W. Hardy, who was Mayor of Lincoln when high-licence was inaugurated there, and who has been called the father of that system, subsequently became one of its most hostile critics. From his published statements it appears that he gave his support to high-licence as a prohibitionist, in the belief that it would prove to be a step towards prohibition, but that he subsequently adopted the views strongly hostile to high-licence, which are common with the extreme section of his party. It would, however, I believe, be difficult to prove anything like a general reaction of feeling to have taken place in Nebraska against the law of 1881. In 1888 (when high-licence had been in force for some seven years) letters were addressed to forty-eight gentlemen, who were deemed to be representative men, in different parts of the State, asking for

\* A lawyer surprised me by remarking that he had found saloon-keepers as jurymen specially severe with their brethren when tried for breaches of the liquor laws.

facts, figures, and opinions respecting the operation of the law. Of the thirty-four answers received, only four were unfavourable to it, one of them being from Mr. Hardy, and one from another prominent prohibitionist. The other thirty replies were, with only two or three exceptions, distinctly favourable to the law as a practical measure of regulation, though some of the writers favoured prohibition in principle, and hoped for a time when it might be possible to enact and enforce it. High-licence, though on the whole the chief, was not the only feature of the law, of which favourable opinions were expressed; the local option and civil damage provisions, as well as others, came in for a considerable share of praise. These expressions of opinion are now more than five years old; but I know of no reason for believing that high-licence stands lower in the public estimation at the present moment than it stood then. The gentleman to whom they were addressed, and who himself would favour the abolition of the liquor traffic, says (writing to me in March, 1893): "I am not aware of any material change in public opinion on the operation of our laws and ordinances since that time." And he claims that the writers were men of intelligence in the State, of widely different views and prejudices concerning the whole liquor question, and presented as fair and complete a statement of individual and public opinion as could be had.\*

The civil damage law is very stringent, and is put in force in a good many cases, though proportionately less often in the large towns, where it is difficult sometimes to trace cause and

\* The statements were published in the *Nebraska State Journal*, March 18th, 1888. Among the writers favourable to the High-Licence Law were the Governor, two ex-Governors, and the Secretary of State, of Nebraska; the Chief Justice, ex-Chief Justice, and two Associate Justices of the Supreme Court; several other Judges; presidents and officers of Law and Order Leagues; lawyers, and men of business—only two of whom appeared to be connected with the liquor interest.

Mr. Hardy, the "father of high-licence," was afterwards the prohibition candidate for the Governorship of Nebraska.

effect, and where saloon-keepers are influential, than in smaller places. There is no doubt that this provision of the law is of real value.

The following cases may be mentioned as instances. One of the first lawyers in Nebraska told me that, when he was in general practice, he took proceedings against three saloon-keepers for the death of a man who started home in his waggon under the influence of liquor. The next day the waggon was found overturned, and the man dead. The amount recoverable was \$5,000. In this case the saloon-keepers had some influence which affected the jury; but a verdict for \$2,800 was obtained. In large cities the influence of saloon-keepers with the juries operates to some extent as a check on the full efficiency of the civil damage law.

In another case, a party of persons who had been drinking started home in two waggons. They began to race, collided, and a woman in one of the waggons fell out on her back and was paralysed. Another case was that of a man who lost his leg through frost-bite while intoxicated. In both cases the saloon-keepers against whom action was brought had to pay a large sum. Proceedings of this kind are taken, perhaps, once out of five times when ground for action exists. There appears to be no difficulty about getting convictions.

The power also of the poor-law authorities to sue a saloon-keeper for the maintenance of a drunken pauper is sometimes enforced. It is of practical use.

Sunday selling in Omaha has been checked, but not entirely suppressed. Until recently many of the poorer classes were in the habit of crossing the river on Sunday to Council Bluffs, Iowa, where there was less restriction.

The enactment prohibiting screens is not fully enforced. That which prohibits "treating" is, as might be expected, a dead letter.

## CHAPTER XIV.

## MICHIGAN AND MISSOURI.

(Local option.)

*Michigan.*

A PROVISION in the State Constitution, prohibiting the Legislature from passing any Act authorising the grant of licences for the sale of intoxicating liquors, was revoked by resolution of the Legislature in 1875—the resolution being confirmed by a vote of the people in 1876. Prohibition, however, though it was the law (with an interval of only two years) from 1853 to 1875, was but little enforced. In 1887 a prohibitory amendment to the Constitution was submitted to the people. A full vote was polled, and the return was 178,636 for the amendment, 184,281 against it—majority against, 5,645. Prohibitionists, however, dispute the correctness of the official figures, and claim that a true count of the votes actually cast would have put their side in a majority. The voting showed that, as a general rule, the agricultural counties favoured prohibition; while the lumber communities and the cities were opposed to it.

An Act passed in 1887, giving, to a limited extent, local option by counties, was declared unconstitutional;\* but a somewhat similar measure was passed by the Legislature in 1889, and appears to be held valid.

By this Act it is provided that the Board of Supervisors of any county may prohibit the sale of liquor in their county by resolution, passed after a popular vote of the electors in the county has been cast in favour of prohibition. A popular vote has to be taken, on a requisition from one-fourth of the qualified electors in the county. The Board of Supervisors, however, is not bound by the popular vote; but it is decided by a vote of the board whether the prohibitory resolution shall be passed. The resolution, once passed, cannot be

\* *In re* Hauck, 70 Michigan, 397.

revoked for two years, and then only if a popular vote has been passed in favour of its revocation.

In the early days of local option, under the law of 1887, before it was declared unconstitutional, a strong tendency to vote against the sale of liquor was manifested—about thirty of the eighty-five counties in the State having, according to statements published by friends of prohibition, given majorities on that side. The impetus then given to the anti-saloon movement has not, however, been kept up. From the annual report of the Auditor-General of the State, it appears that in the year 1890 no more than four counties were devoid of recognised liquor-dealers.\*

In answer to inquiries touching the existing position and prospects of local option in Michigan, I am enabled to give the following extract from a letter written in March, 1893, by one who held a high official position in the State at the time when the local option law was passed, and who was strongly in favour of it:—

“There is not one encouraging thing to be said in relation to the practical working of this law. . . . The court held the law of 1889 to be constitutional in all of its provisions. The question was submitted to the people in nine or ten counties, and adopted by seven. I suppose we must frankly admit that it has not been enforced in more than two of these counties. . . . My observation and experience force upon my reluctant mind the admission that you cannot say one encouraging word in relation to the working of the law in Michigan.”

Branch County has quite recently decided to abandon prohibition—“temperance” men as well as their opponents contributing to this decision.

\* Isle Royal and Kalkaska counties are noted as having no saloons; and Van Buren, “local option;” from another county, Manitou, “no return.” Not one of these counties contains a town of as many as 2,000 inhabitants. Isle Royal is an island in Lake Superior, with a population of 135. Manitou County consists of a group of islands in Lake Michigan, with a collective population of 860. Van Buren again voted “dry” in the autumn of 1892, after a long and energetic canvass.

Hillsdale County is under prohibition ; but it is said that, until recently, no steps had been taken in any part of the county to put down violations of the law, except in Hillsdale City, where the Law and Order League has displayed some activity.

Van Buren County again voted "dry" in 1892.

An Act of 1887, providing for the regulation of the liquor traffic wherever it was not prohibited under the local option law, was intended by the Legislature to be superseded by an Act passed in 1889, re-enacting it with modifications. The later Act, however, having been declared unconstitutional, the Act of 1887 was left standing.\*

By this Act the trade is taxed annually as follows :—

Retail† (apparently for all kinds of liquor)	...	\$500
Wholesale, or retail, or both, brewed or malt liquor only	... ..	300
Wholesale, for "spirituuous or intoxicating liquors"	... ..	500
Wholesale and retail, ditto	... ..	800
Brewers‡	... ..	65
Distillers	... ..	800

Wine or cider made from fruit grown in the State is exempt from tax, unless sold "by the drink."

Druggists may sell for medicinal, chemical, scientific, mechanical, and sacramental purposes, free of tax ; but they are required to record particulars of every sale, and every druggist has to enter into a bond in \$2,000, with two sureties being freeholders and residents of the county, to secure his compliance with the law.

Every liquor-dealer has every year, before the 1st of May, to make a sworn statement as to his name, residence, place of business, etc., and to pay the tax. He has also to enter into a bond of not

\* *Rode v. Phelps*, decided by Supreme Court, April, 1890. As to the validity of the taxes, penalties, and provisions of the Act of 1887, *see* *Luton v. Circuit Judge*, 69 Michigan, 613.

† Retail means three gallons or less, or one dozen quart bottles or less, at any one time.

‡ Payment of a brewer's tax authorises sale by wholesale without payment of a wholesale dealer's tax in addition. A distiller has apparently to pay both taxes.

less than \$3,000 and not more than \$6,000, with two sureties being male residents and freeholders of the same township, village, or city, and not holding any elective or appointive office in the State (except that of notary public). No one may be a surety on more than two such bonds. The amount and sufficiency of the bond has to be determined by the local authority, and the bond with a certificate of the approval of that authority has to be presented to the county treasurer before the 1st of May in each year. The approval of the local authority is to be withheld if the person is known to be one whose character and habits would render him or her an unfit person to conduct the business of liquor-selling.

The penalty for selling without having entered into a bond, properly approved, and without having paid the proper tax, is a fine up to \$200, or imprisonment from 10 to 90 days, or both fine and imprisonment. The offender further forfeits his tax, and is disqualified for a year from resuming business. Half of the tax goes to the township, village, or city; the remainder to the county.

It is the duty of every county officer, police officer, or other person having knowledge of any violation of the Act to inform the county attorney, and it is the duty of the county attorney forthwith to prosecute. If any officer wilfully neglects or refuses to do his duty under the Act, he is liable to a fine of \$100 for each offence; and the Governor may appoint someone else to act for him.

The selling of liquor to minors, to intoxicated persons or persons in the habit of getting intoxicated, to Indians, to persons respecting whom a prohibitory notice has been given by a relative or employer, or by a member of the local authority or superintendent of the poor, is forbidden.

Liquor may not be sold in a theatre or place of amusement; and saloons must be closed (back and front) on Sundays, election days, or holidays; and from 9 p.m. to 7 a.m. (except in cities and incorporated villages, where the hour for closing may, by local ordinance, be postponed till 11 p.m.).

A peculiar provision of the Michigan law is that which requires a magistrate, on a sworn complaint that anyone has been intoxicated in any public building or place, to compel him to appear, in order "to testify in regard to the person or persons of whom, and the time when, and the place where, and the manner in which the liquor producing his intoxication was procured." He is then obliged to answer on oath the question: "When, where, and of whom did you procure, obtain, or receive the liquor or beverage, the drinking or

using of which has contributed to the cause of the intoxication mentioned in the complaint?" According to his answer, proceedings are to be taken against any who appear to have violated the law; but he himself is not to be prosecuted for his intoxication.

In addition to the usual civil damage clause, both actual and exemplary damages are recoverable by a parent or master for the illegal sale of liquor to a minor.

The village and city marshals, or the police, are required to visit weekly all places where liquor is sold or kept, and to prosecute all offenders against the liquor law.

The adulteration of liquor is made a misdemeanor punishable by fine, from \$50 to \$500, or imprisonment from 10 days to 6 months, or both; and all casks, etc., are to be branded: "Pure and without drugs or poison."

During the hours of closing, all screens, etc., obstructing the view from the street must be removed.

The abortive Act of 1889 followed generally the provisions of the above law. It, however, taxed the retail sale of beer as highly as that of spirits; it raised the minimum amount of the liquor-dealer's bond from \$3,000 to \$4,000; omitted the restriction as regards his character; and required all clubs to pay the tax, and to close at the appointed hour any room in which liquor was kept or distributed.

The number of liquor licences issued in the whole State during several years is shown in the following table, also the ratio of retail licences to population in 1880 and 1890:—

## STATE OF MICHIGAN.

	1880.	1885.	1890.
<i>Licences:—</i>			
<i>General:—</i>			
Wholesale ... ..	33	38	30
Retail ... ..	1,925	2,915	2,506
<i>Beer and wine:—</i>			
Wholesale ... ..	39	20	55
Retail ... ..	1,600	1,183	1,678
<i>Tax paid by retailers:—</i>	\$	\$	\$
General .. ..	356,954	824,014	1,186,318
Beer and wine ... ..	103,644	211,946	479,154
Ratio of retail licences to population ...	1 to 464	...	1 to 500



The next table gives some statistics for Detroit (population 205,876):—

	1885.	1886.	1887.	1888.	1889.	1890.	1891.
Arrests—total:— ...	...	...	...	...	...	8,693	8,720
Common drunkard ...	18	33	20	20	21	12	10
Drunkenness ...	2,866	3,768	4,421	3,815	3,451	3,555	2,816
Keeping saloon open on Sunday ...	63	26	59	209	122	126	135
Not paying liquor tax ...	139	478	191	242	289	222	940
Selling to minors...	1	...	3	4	8	1	1
Number of retail liquor-dealers ...	...	...	...	...	...	1,082	1,284
Number of police ...	...	...	...	...	...	...	368*

The year 1891 shows a large increase of arrests for non-payment of the liquor tax; but on the other hand the Police Commissioners reported that only 98 retailers had at the end of that year failed to pay the tax, against 231 at the same date in the previous year. Evidently, therefore, the increased number of arrests for this offence was due to a more stringent enforcement of the law rather than to an increase of law-breaking. There appears to have been great laxity in the enforcement of the liquor law generally in Detroit, but a recent agitation has resulted in a somewhat more vigorous prosecution of offenders. There is, as I was informed, much abuse of the privilege, allowed to those selling wine and malt liquor only, of paying a reduced tax, spirits being very commonly sold under cover of it. While the prevalence of this evasion of the law is well recognised, no very determined efforts seem to have been made to cope with it; indeed, the liquor law in Detroit, and perhaps in the State generally, cannot be said to have been vindicated with much success. Probably the unsettled state of the law,

\* The Police Commissioners, in their report for 1891-2, stated that, in consequence of the insufficiency of the force, there had been an entirely inadequate patrolling of the streets; there were many miles of streets on which no policeman was seen night or day.

and the legal decisions which have declared some of the liquor statutes invalid, may have tended to paralyse the efforts of those who would otherwise have pressed for more vigorous measures. The existence of such a tendency is shown in a report made by the secretary of the Citizens' Law and Order League of the United States to the annual meeting of that body in Philadelphia in February, 1888, in which he says :—

“The decision of the Supreme Court in Michigan nullified the existing law to such an extent as to discourage the Law and Order Leagues that were operating there, and the present Local Option Law recently enacted is now hanging upon the decision of cases pending before the Supreme Court, and the Leagues are waiting these decisions to know what chances there are for successful work.”

As regards the sale of spirits by dealers who have only paid the \$300 tax, it should be noted that one of the changes embodied in the abortive law of 1889 was the abolition of the reduced tax on malt liquor, and the substitution of a single tax for retailers of all kinds of liquor.\*

As a result, however, of the recent agitation in Detroit already mentioned, sixty-four retailers in one precinct, who had paid the lower tax, after ascertaining that evidence had been obtained that they were selling spirituous liquor, were reported by the superintendent of police to have paid the additional tax without waiting for proceedings to be taken.

The report of the superintendent continues :—

“I repeat the opinion expressed in former reports, that further legislation for the regulation of the liquor traffic, to be effective, should take the direction followed by several other States, of limiting the number of dealers who may engage in this traffic, and of imposing conditions under which licences may be secured and retained.

\* Since the above was written, I read that a law has passed the Michigan Senate in 1893, fixing a uniform rate on the retail sale of liquor of \$500 a year.

"Under the present law of this State, any person—without reference to character or habits—may engage in the business of selling liquor, and may continue the same for one year upon payment of the requisite tax. In many cases the payment even of the tax depends upon the discovery of the fact of non-payment by the Police Department, and then upon the necessarily slow process of getting the offenders before the courts.

"The commencement in this business by any person should be made to depend upon the prior payment of the tax, and, in addition to the tax, dealers should be responsible to some authority for observance of the requirements of the law, under penalty—upon due conviction—of forfeiture of licence and prevention from continuing the business for some stated time thereafter."

Whatever laxity may have been shown in the execution of the liquor laws in Michigan can hardly be set down as the result of a general lack of temperance sentiment in this State, as compared with others, in view of the narrow majority that defeated the proposed constitutional amendment in 1887, and the fact that in two successive presidential contests a heavier prohibitionist vote in proportion to population has been cast by Michigan than by any other State.

### *Missouri.*

This State has had a local option law since 1887. The licensing law also embodies to a limited extent the principle of local option by requiring that every application for a licence should be supported by a certain proportion of the inhabitants, amounting, outside the urban communities, to a majority of the taxpayers throughout the whole licensing area—a requirement which, combined with a high-licence duty, and a general discretionary power of refusal in the licensing authority, has so operated as largely to restrict the number of licences issued.

In or about the year 1880 a proposal was made in the State Legislature to submit to popular vote a prohibitory amendment to the Constitution, when there voted 61 for the proposal and 63 against it, the whole number of members

being about 145. The same proposal has been subsequently renewed and received strong support, but has never been adopted. In 1887 it was indeed carried in the House, but failed, owing, as I was told, to the abstention of certain members in the Senate. The local option law was then put forward and adopted as a compromise.

The licence fees were raised a few years ago, and it has been proposed still further to raise them.

The local option law is, in effect, as follows:—

On application of one-tenth of the voters in any incorporated city or town with a population of 2,500 or more, or of a like proportion in any county, exclusive of any such city or town, the local authority is required to hold an election to determine whether intoxicating liquors shall be sold in such city or town, or county.

The election is not to be held within three months of any other election. If the majority is against the sale of intoxicating liquors, no one may, in the area concerned, directly or indirectly sell, give away, or barter in any manner whatever any kind of intoxicating liquor or beverage containing alcohol, in any quantity whatever, under penalty of a fine of \$300 to \$1,000, or imprisonment from six to twelve months, or both fine and imprisonment—subject to a saving for the sale of wine for sacramental purposes, and pure alcohol for medicinal, art, scientific, and mechanical purposes.

After an election has been held under this law, the question cannot again be submitted to the electors for four years.

The licensing law is contained in a statute passed in 1879, as subsequently amended in 1883, 1885, and 1887.

No one is allowed to sell intoxicating liquors in any quantity less than a gallon, without taking out a licence as a dramshop keeper. Application for such a licence must be made to the County Court, and must be supported by a petition signed, in a city or town having a population of 2,500 or upwards, by a majority of taxpayers in the same block, and, in any other city or any incorporated town or municipal township, by a majority of taxpayers therein and also in the block. The petition must be annually renewed.

In any such city, town, or municipal township, if the requisite

petition is presented, the court may in its discretion grant the licence; but, if the petition is subscribed by two-thirds of the taxpayers, the court, if of opinion that the applicant is a person of good character, is bound to grant it.

The licence is granted for six months, and the applicant has on each occasion to give a sworn statement of the full amount of all liquors received at his shop in the preceding six months, and to pay thereon a State *ad valorem* tax of the same amount as is paid by merchants on merchandise. The applicant has also to give a \$2,000 bond with two or more sureties approved by the court, as a security for his obedience to the law.

The following *half-yearly* taxes have to be paid on each licence:—\$25 to \$200 for State purposes; \$250 to \$400 for county purposes; the amount in both cases being fixed by the County Court.

Local authorities in incorporated towns and cities may also impose a tax on licences to dramshop keepers within their limits.

A penalty of \$50 to \$200 is enacted for selling or giving liquor to a minor, or employing a minor in a dramshop, or permitting a minor to frequent a dramshop, without the written permission of his parent or guardian. Damages to the extent of \$50 may also be recovered.

For keeping a dramshop open, or selling or giving any liquor, on Sunday, the penalty is a fine of \$50 to \$200; the offender is also to forfeit his licence, and be disqualified for two years.

The County Court, on proof that a dramshop keeper has not at all times kept an orderly house, is required to revoke his licence.

The County Court is not to grant a licence to any person whose licence has once been revoked, or who has been convicted of any violation of the liquor law, or who has had in his employ any such person.

Wholesale dealers are forbidden under penalty to permit drinking on the premises.

Any dramshop keeper, druggist, or merchant selling or giving liquor to an habitual drunkard, after notice given by a relative or guardian not to furnish liquor to such person, is liable in damages to the relative or guardian to the extent of \$50 to \$500, and is to forfeit his licence.

By a law passed in 1889, a dramshop keeper is not to allow the use of any musical instrument, nor any contests or exhibitions on his premises, nor any billiard-table, gaming-table, bowling alley,

cards or dice. The penalty for infringement of this provision is a fine from \$10 to \$50, and forfeiture of licence with disqualification for two years.

The immediate effect of the local option law was that votes were taken in 61 of the 115 counties in the State, and also in 16 towns which, having populations exceeding 2,500, were excluded for this purpose from the counties in which they lay. The result of the elections was that 39 counties and 11 towns gave a majority against liquor, and accordingly about 220 saloons lost their licences. The entire vote in the State before the close of 1887 was nearly 79,000 "dry" and 73,000 "wet," or a clear majority of 6,000 against the grant of licences in those places in which a vote was taken.

In the years subsequent to 1887 local option elections have from time to time been held, both in counties and in towns; but the number of such elections has been small, and the movement even in those areas which had once adopted prohibition has not been well maintained. The validity of the elections has in a large proportion of cases been defeated on technical grounds, and the cases where the local prohibition impulse has been strong and persistent enough to survive such failures have been few and far between. Up to the end of 1892 the local option law appears to have been set aside in no fewer than 33 counties, on account either of irregular proceedings of the County Court ordering the election, or of the errors of the county clerk in recording it, or of insufficient advertisement. In nearly all the towns which adopted the local veto it was also defeated on similar technical grounds. In a few towns and counties it was revoked by a direct vote of the people.\* On the other hand, in a few instances, it has been adopted a second time;† and in one county at least it was re-adopted after four years' trial by a larger vote than it had received

\* Scott and Washington counties, and the towns of Marshall (pop. 4,300), Columbia (4,000), and Independence (6,380).

† *E.g.*, Cameron (2,900) and Fayette (2,250).

before.\* These latter cases, however, form distinctly the exception to the general rule, as is apparent from the fact that at the close of 1892 prohibition under the local option law was in force in no more than eleven counties and two cities.

While the foregoing figures show that the anti-liquor vote under this law has failed to hold its ground, it does not appear that even during the time and within the area of its adoption the local veto was as a general rule enforced with great success. To take a single instance, I was informed that in Independence, the chief town of Jackson county, which voted "dry" in 1888, and returned to "wet" in 1892, clubs in which liquor was supplied were tolerated during the prohibitory period on payment of a monthly fine to the city. And I was assured that, whereas under licence Sunday closing was fairly enforced in the town, under prohibition liquor was sold on Sundays as well as on other days, so that the chief result of the prohibitory vote was said to be that liquor was sold seven days a week instead of six. The following extract from a statement recently published by a noted prohibitionist in St. Louis expresses the views of one who considers local option to have been proved a failure in Missouri.†

"While it is true that a suspension of the law in the counties which voted against licence is due to court decisions based upon mere legal technicalities, it is generally admitted, even by the temperance people, that the law has proved unsatisfactory. Where saloons have been driven out, drug stores have been opened for the sale of liquors under the guise of physicians' prescriptions. Druggists are permitted in this State to fill the prescriptions of regular physicians for any kind of intoxicants. Taking advantage of this provision of the law, druggists in local option counties maintain physicians in connection with their establishments, who will prescribe liquor for all who apply. As no court can question

\* Randolph.

† See an article signed by Mr. Ben Deering which appeared in the *St. Louis Post-Dispatch* on Sunday, December 18th, 1892. From this article are derived most of the particulars stated above respecting the working of the local option law.

the right or propriety of a physician's prescription for a patient, no legal remedy has been found for this abuse of professional privilege. In some of the counties druggists do not trouble themselves about prescriptions, but sell liquors freely to all who ask for it. The temperance people have become so completely disgusted with the Local Option Act that they make no effort to carry a local option election, or to oppose legal proceedings instigated to set aside the law."

According to the same writer, there were in 1888 less than 3,000 saloons reported in the State, a number which in 1892 had grown to nearly 3,400. As a set-off, however, to the failure of the local option law, he names 27 counties in which no saloons are, in fact, licensed, and 15 others having only five licences, or less, each. The collective population of these 27 counties is over 400,000. They are rural communities comprising no towns of over 3,000 inhabitants, and only two (Cameron and Liberty) over 2,500.

Another county, Greene, is mentioned as having no licences outside Springfield, a town of 22,000 inhabitants, with 23 saloons.

Returning for a moment to the local option law, I may mention that another leading prohibitionist in St. Louis told me that, when the attempt to submit the prohibitory amendment to the Constitution failed, he supported the movement for local option. He regarded it as a step in the right direction; and he hoped that the experience of those places which adopted it would induce others, which did not at first do so, to follow their example, and that a tendency towards a more complete law would be quickened and strengthened. He declared himself, however, to be entirely disappointed with the results; for, though at first a large number of the counties, as well as many towns, passed prohibitory votes, the law had not been efficiently enforced; and he stated in general terms that local option might now be considered as practically obsolete. From other sources also I heard similar accounts of



the ineffective enforcement of the law of 1887 in places which had adopted it.

Though the figures given above show that during the last few years there has been an increase in the whole number of licences, there can be no doubt that the raising of the fees about ten years ago has had a great effect in checking the demand for them. According to a statement made by the author of the high-licence law, it operated to reduce the total number of dramshops between 1882 and 1886 from 3,600 to 2,880, notwithstanding the large increase of population; while, at the same time, the revenue rose from \$501,000 to \$1,690,000 for county and municipal purposes. But for high-licence it was estimated that by 1888 the number would have risen to 6,000.

Excluding the two great cities of St. Louis and Kansas City, which will be noticed separately, the whole number of saloon licences current in 1892 throughout the State very slightly exceeded 1,000,\* giving an average of one saloon for about 2,000 inhabitants outside those cities. The revenue derived from these licences (exclusive always of the two cities above-named) was a little over \$1,000,000, or almost \$1,000 each, on the average. It has already been noticed that the licence law admits of the liquor taxes being fixed at varying rates. As regards the State tax, it was stated by the Governor in his annual message delivered in January, 1893, that only one county in the State, Adair, collected the maximum amount (\$200 half-yearly), and only five counties collected more than the minimum. In some, but not in all, counties, the county tax is also fixed at the minimum rate of \$500 a year. The discretion

\* Mr. Ben Deering, in the article already referred to, puts the whole number of licences in the State at 3,378, and claims that this figure is the result of official returns for the whole State, except the city of St. Louis, in which he estimated that the saloons numbered 2,000. The ascertained number in Kansas City in December, 1892, was 352. Deducting, therefore, 2,352 for those two cities, there would remain 1,026 for the rest of the State.

allowed to municipal corporations to impose an additional liquor tax, to be applied to their own purposes, of such amount as they may think fit, has been differently exercised in different places, but in probably every municipality a considerable tax is imposed, and in some cases it is very heavy. Thus in one town, Columbia, having 4,000 inhabitants and three saloons, the annual cost of a licence for county, State, and city purposes is \$2,600, while in nearly fifty other towns it varies from \$1,000 to over \$2,000. In these towns the ratio of saloons to population is as 1 to 625. Outside the municipalities, the cost of a licence may be as high as \$1,200, but cannot be less than \$550, a price which in many country districts would of itself be equivalent to prohibition; while the County Courts, in their power to raise the tax leviable for county purposes from \$500 to \$800, and the State tax from \$50 to \$400, are enabled to exercise an effectual veto.

From the foregoing facts and figures it will appear that the average cost of a licence is quite exceptionally high—perhaps, indeed, higher than in any other State in the Union; and the result of this condition, added to the severely restrictive provisions of the license law requiring all applications for licences to be strongly supported by the neighbouring inhabitants, together with a strong and prevalent anti-liquor sentiment, and, at all events in many country districts, a small demand for stimulants, has been that, notwithstanding the little success which has attended the experiment of local option by popular vote, the number of licensed saloons throughout the State is in proportion to population unusually low, while from a large portion of the rural districts they are altogether excluded.

The city of St. Louis, which according to the census of 1890 ranks fifth among the cities of the United States, having a population of nearly 452,000, is for all administrative purposes made independent of the county of St. Louis, in which it is locally situated; and (down to the present year) the municipality has had control of everything except the police force,

which is "metropolitan," *i.e.*, regulated by a Board of Commissioners appointed by the Governor of the State. The result of this exclusion from the county organisation is that no county tax is levied on the dramshops ; and, as the municipal authorities impose only \$500 on retail liquor licences, dramshops are more lightly taxed in St. Louis City than in any other town in the State, paying only \$550, of which the State takes \$50.

St. Louis contains a large proportion of Germans, and is an important centre of the brewing industry. The liquor interest exercises much influence in the administration of local affairs, and the licensing power has hitherto been entrusted to a single official, the collector of revenue, an arrangement which has given rise to considerable dissatisfaction ; but the Legislature has at length, in 1893, made statutory provision for transferring this duty to a Board of Commissioners appointed by the Governor. Allegations have been made of undue influence in the matter of licensing, and of licences being granted in defiance of the provision in the law which requires the assent of the majority of taxpayers in the block. It is said also that irregularities have been allowed in the collection of the licence tax. No information is published or easily obtainable of the number of licences issued, but the number can be approximately estimated by reference to the revenue returns. According to the annual published statement of the collector of revenue, the sum received during the year ending April, 1892, on account of dramshop licences was, for the State, \$102,750, and for the city, \$894,000. These figures do not appear to tally, as, for each dramshop, the State takes \$50 a year and the city \$500. The difference may probably be due to irregularity in making the payments. It may be inferred that the number of dramshops in the city was from 1,800 to 2,000 ; or say, roughly, one dramshop to 240 inhabitants.

Public opinion in St. Louis has been stirred of late on the subject of the administration of municipal affairs, and the general enforcement of the liquor law is a matter on which

much dissatisfaction has been expressed. According to my information, adequate energy has not been shown in the suppression of unlicensed dramshops, so that quite an appreciable proportion of the liquor consumed in the place is sold in an illicit way. The Sunday closing law, as in many other cities, is greatly violated; indeed, beyond the closing of the front door, little is attempted towards enforcing it. A large percentage of the population of St. Louis is of foreign parentage, the German element being especially strong. There is a large consumption of lager beer; and many persons are employed in the breweries, where a liberal supply of malt liquor is allowed them for their daily consumption. The percentage of alcohol in lager beer is of course small, and it is claimed that, here in St. Louis, where the consumption of this liquor is admittedly high, it cannot justly be charged with causing much drunkenness. I was assured that in a quarter of the town which was chiefly or very largely inhabited by persons employed in the breweries, the amount of drunkenness or of crime due to this cause was conspicuously small, but I am not able to support this statement by official returns from the municipal courts.

The following figures show the total number of arrests for drunkenness in St. Louis as stated in the official reports; in proportion to the population the figures are low as compared with many other cities:—

1884	...	...	...	...	...	...	5,737
1885	...	...	...	...	...	...	4,993
1886	...	...	...	...	...	...	4,137
1887	...	...	...	...	...	...	4,117
1892	...	...	...	..	...	...	4,357

In 1892 there were 5,471 arrests for disturbing the peace, in a large proportion of which cases drunkenness was probably an element. The arrests for all offences numbered 22,935.

In Kansas City (population in 1890, 132,716) the licensing power is vested in a Board of Licence Commissioners

appointed by the Governor of the State. This system has been in operation about three years. Previously, licences were granted as of course on any application which was supported by a majority of frontagers in the block. Applications are now dealt with by the commissioners at their discretion. Their practice is to require each applicant to bring an affidavit from some person certifying him to be of good moral character. Notice is then given to all the inhabitants in the same block, who are given an opportunity to put forward objections; and the commissioners decide in each case as they may think fit. In the outlying residential quarters a licence will never be granted if it is objected to. The impossibility of giving a complete police supervision in the outlying parts influences the board in the exercise of their licensing powers: and the fact that the city gets only \$250 on each licence, while an additional policeman costs \$800 or \$900, has weight. The city is not at all satisfied with the existing mode of sharing the licence fee, the State getting \$50 and the county \$500.

Since the Police Commissioners have had the licensing, the number of retail liquor-sellers has been reduced by about 150. In February, 1893, the number was 352, a ratio to population of about 1 to 420. The annual cost of each licence is \$800. It is claimed that a great improvement in the condition of the town has resulted from the weeding out of many disreputable saloons, and notably from the entire exclusion of the sale of liquor in some of the lower streets containing houses of ill-fame and much of the "tough" element of the town.

The following statistics are for the year ending April, 1892 :—

## KANSAS CITY.

Total number of arrests (city cases)	...	...	...	5,960
Drunk and disorderly	...	...	...	376
Intoxication	...	...	...	716
Keeping dramshop without licence	...	...	...	13
Selling liquor on Sunday	..	...	..	13

## CHAPTER XV.

OHIO. ILLINOIS. WISCONSIN.

*Ohio.*

THE new Constitution of Ohio (1851) provides that "no licence to traffic in intoxicating liquors shall hereafter be granted in this State ; but the general assembly may by law provide against the evils arising therefrom."

The ambiguous language of this provision was the result of a compromise between conflicting parties at a time when the prohibitory movement was rapidly growing, and was destined soon to obtain legal confirmation in some fifteen States in the Union. The anti-liquor party in Ohio hoped that it would work in the direction of prohibition, and would prove a long step towards the total suppression of the drink trade. It has, in fact, never produced this result. It has not even prevented the raising of revenue from the liquor dealers ; and at the present time its only effect is to prevent the State Legislature from adopting any of those measures of restriction (should they desire to adopt them) which are commonly believed to mitigate the evils of intemperance.

Ohio supplies an instance of the operation of free trade in liquor selling, tempered only by taxation ; by certain restrictions on the mode of carrying on the business ; and by a power of absolute prohibition, which in some parts of the State has been exercised. There is no legal restriction on the number of places in which the business may be established, nor on the persons who may establish it. For a time the consumption of liquor on the premises where it was sold was forbidden, but this law had little practical effect.

In order to comply with the terms of the Constitution, the Dow Law is so framed that the payment required is not in form a licence fee, nor is it made a condition precedent to the

opening of a saloon ; but it is a tax imposed on those who are actually engaged in the liquor trade, on the principle that, as the trade causes results which entail expense on the State, those who are engaged in the trade should in fairness be taxed to meet that expense. This law, passed in 1886, was preceded in 1882 by a law known as the Pond Law, which was declared unconstitutional ; and in 1883 by the Scott Law, which was declared constitutional, but some of the provisions of which were of doubtful legality. The validity of the tax under the Dow Law was also at first disputed, and in 1886 the collection of the tax was opposed. The Police Board of Cincinnati, whose expenses it was expected that the tax would pay, were active in obtaining a legal decision as to its validity. The tax as fixed by the Dow Law was altered in 1888, and is now \$250, without reference to the kind of liquor sold. No discrimination is made in favour of beer or light liquors.

The tax of \$250 is assessed upon every person who traffics in intoxicating liquors, for every place where he carries on such traffic, paid in half-yearly instalments.

"Trafficking" means the buying or procuring and selling otherwise than upon medical prescription, or for mechanical, pharmaceutical or sacramental purposes ; but does not include the manufacture from the raw material, and sale at the manufactory by the manufacturer, in quantities of not less than a gallon. Wholesale dealers who are not manufacturers are liable to the tax, and a *bonâ fide* social club has been held to be liable.

\$50 is paid to the State ; the remainder is divided among certain county and local funds in specified proportions. Sales on Sundays are prohibited, except by druggists on medical prescriptions ; and saloons are required to be closed on pain of a fine from \$25 to \$100, and imprisonment from ten to thirty days.

Any municipal corporation is authorised "to regulate, restrain, and prohibit ale, beer, and porter houses, and other places where intoxicating liquors are sold at retail" (except for medical, etc., purposes). This enables a municipal corporation to pass a prohibitory ordinance.

Anyone selling liquor to a minor, except on a written order

from his parent, guardian, or family physician, or to a person intoxicated, or in the habit of getting intoxicated, is liable to a fine from \$25 to \$100 *and* imprisonment from five to thirty days.

In 1888 a law was passed requiring the trustees of any township outside a municipal corporation, on petition of one fourth of the electors, to hold a special election upon the question of prohibition for the township. If prohibition is carried, the punishment for selling liquor in the township as a beverage, or keeping a place for the sale, is a fine from \$50 to \$500 *and* imprisonment not exceeding six months.

In Cincinnati liquor may not be sold between midnight and six a.m.

By the law of 1888 it is required that the nature of alcoholic drinks and narcotics, and their effects on the human system in connection with the subjects of physiology and hygiene, shall be included in the regular branches of study in the State schools. The law is sufficiently complied with if oral instruction only be given, without the use of text books.

There are about twenty special statutes prohibiting the sale of liquor within specified distances of certain educational and other places.

Liquor may not be sold on election days, and liquor shops must be closed. There are penalties on adulteration.

The law provides that "whoever is found in a state of intoxication shall be fined \$5."

A place where a person sells liquor illegally is a common nuisance, and on his conviction may be closed unless he gives security.

There is a civil damage law (the Adair Law) operating only after notice not to serve liquor. If it is sold after notice, the seller is liable to a fine from \$5 to \$25, as well as damages for all injury. Anyone serving liquor so as to cause intoxication is liable to compensate anyone who takes charge of the intoxicated person for his expenses.

A tavern-keeper who permits rioting, revelling, or intoxication on his premises is to be fined from \$5 to \$100.

In Columbus the liquor law is not vigorously enforced by the police. The force is under the orders of the mayor as head of the municipality, and is also subject to a board of five commissioners, of which the mayor is *ex-officio* a member, a



system of divided responsibility which, combined with the operation of politics, is not conducive to efficient administration.\*

A movement is on foot for obtaining a new charter, under which the city government would be reorganised in the interests of a purer administration ; but it has to pass the State Legislature ; political exigencies will be stirred ; and it is uncertain what success will reward the reformers, whose object is to secure that the mayor and a few officers only should be elected by popular vote, the others to be appointed by the mayor and be responsible to the municipality. As things now are, the "spoils" system with the subordination of efficient administration to party exigencies seems to be a vice peculiarly prevalent in Ohio, though common enough elsewhere.

In Cincinnati, the largest city of the State, having a population of about 300,000, the police force has been taken out of the local control, and since 1886 has been placed under a board of four commissioners, two for each party, appointed by the Governor. The official title of the Board, which appears on the front page of each annual report, "The Non-partisan Board of Police Commissioners of Cincinnati," emphasises the intention of those who instituted it. Here the law, though in some respects not strictly observed—Sunday-selling in particular being very generally carried on—is less openly violated than in Columbus.

The immediate effect of the Dow Law was to reduce the

\* The following instance will serve to show how the system works. Public gambling has been a widespread evil in Columbus. The mayor was anxious to put down the gambling houses, and gave directions accordingly to the superintendent of police. This officer affected to obey ; but it was intimated to him by members of the Police Board that he had better not act with too much vigour. The superintendent was in a dilemma. He was bound to obey the mayor's order, but three of the commissioners were opposed to the closing of the gambling houses, and, if he closed them, he would lose his place. The mayor was also in a dilemma. He could suspend (not dismiss) the superintendent of police ; but if he did so the board would reinstate him. As a natural result little or nothing was done.

number of liquor shops throughout the State by more than 3,000 (from 15,000 to under 12,000). There has since been an increase, but (it is thought) not more than proportionate to the increase of population. In the latter part of 1892 liquor was sold by retail in about 2,200 places in Cincinnati (being in a ratio to the population of 1 to about 136).

In this city the midnight closing law is fairly observed ; the police are active in enforcing it, and are able to keep the violators of this law in check.\* In 1890 and 1891 the number of arrests for selling after midnight was respectively 97 and 395, special efforts having been made in the latter year to put a stop to this offence.

As regards Sunday closing, the police authorities declare that they can do little more than see that the front doors are closed. Public opinion does not support a strict enforcement of this law, and juries will not convict for its violation. Attention is repeatedly drawn to this fact in the reports of the Non-partisan Board of Police. The report of the president of the board for 1888 states that the police had been active in their efforts to enforce the midnight and Sunday-closing laws ; "but in the latter law the force has been hampered and restrained by a lack of disposition on the part of the proper authorities to have the law obeyed. I have no hesitation in saying the police are ready and willing at all times to enforce any law in the statute books when properly sustained by other departments of the city government."

In the report for 1889 it is stated that the Legislature had left the door wide open for the escape of violators of the law by its authorisation of the establishment of the police-court jury system. "Looking at the matter solely from the police standpoint, I take the liberty of saying that public respect for the law . . . demands either the abrogation or modification of the Sunday laws as to saloons and places of amusement

\* The police force, 470 strong, is said to be hardly sufficient for the requirements of the city.

or else a radical change in our police-court jury system." The reports of 1890 and 1891 make similar complaints. "The evidence obtained" (it is stated with reference to prosecutions for breaking the Sunday-closing law) "is conclusive, but no jury will convict, as in every case there has been a disagreement." In one case, mentioned by way of illustration, an arrest was made of occupants of premises where intoxicants were being sold, a musical performance at the same time going on, and the doors wide open, yet the jury disagreed upon the trial.

From another source of undoubted authority I was assured that much manipulation was practised with the jury lists.

Beer is the popular beverage in Cincinnati. There is a large German element in the population, and much German beer is brewed in and about the city, for consumption there and elsewhere. The beer-drinking German has spread his taste for that liquor among the native Americans, and inhabitants of Cincinnati keep a supply of beer much more commonly now than they used. It is, however, the opinion of persons well able to judge, that drunkenness has not increased in a greater ratio than the population. The figures following are taken from the police reports :—

Arrests in Cincinnati.	1886.	1887.	1888.	1889.	1890.	1891.
Violation of liquor law (keeping open after hours, or on Sunday or election day; sell- ing to minors or drunkards, etc.) ...	125	133	* 904	† 924	298	‡ 665
Drunkenness ...	1,745	3,039	3,625	2,731	2,651	3,543
Disorderly conduct ...	1,480	2,920	1,209	1,438	1,646	1,318
Total No. of arrests ...	12,902	15,244	16,220	15,695	16,944	16,217

\* 700 arrests for keeping open saloon on Sunday.

† 750 arrests for keeping open saloon on Sunday.

‡ 400 arrests for keeping saloon open after hours.

It appears from the report of the Board of State Charities \* for 1891 that the total number of prisoners in Ohio during the year ending November 15th, 1891 (including those in confinement at the beginning of the year as well as those committed during the course of it), was 18,692, detained in the State Penitentiary and county jails, the House of Refuge in Cincinnati, and the workhouses of Cincinnati and Zanesville.† In the penitentiary alone (which is reserved for those guilty of the more serious crimes) the number was 2,475, of whom 918 were newly admitted during the year. A large proportion of the inmates of the workhouses are chronic drunkards who are repeatedly committed for short terms. Respecting this class of misdemeanants, the board report that the system of short sentences is worse than useless, doing no good to the prisoners, and inflicting a needless expense on the taxpayers. "The remedy for this state of affairs, as we have repeatedly recommended in previous reports, is cumulative or indefinite sentences, or both combined, supplemented by a parole and police supervision." ‡

The returns from the County Infirmaries show that 13,529 "indoor" paupers (of whom 7,694 remained over from the previous year) were maintained during the year ending August, 1891, the daily average being 6,533. Of the 7,576 paupers remaining in the infirmaries at the end of the year, 3,510 were returned as temperate, 1,579 as intemperate.

\* The Board of State Charities of Ohio is non-partisan, consisting of three members from each of the two parties. They hold office during good behaviour.

† Boys and girls sent to institutions appropriated to juvenile offenders are not included, nor prisoners committed to the workhouses at Cleveland and Toledo, from which no returns seem to have been made. In the previous year 4,779 persons were under sentence in these two workhouses.

‡ A law passed by the Legislature of Ohio in 1885 provides that every person convicted for the third time of felony shall be judged an habitual criminal and imprisoned for life. This law has been to a great extent nullified by the failure to allege previous convictions in the indictment.

The following figures show a considerable fluctuation in the number of inmates of infirmaries at different periods :—

March 1, 1881	...	...	...	...	7,667
September 1, 1889	...	...	...	...	12,693
„ 1890	...	...	...	..	7,694
„ 1891	...	...	...	...	7,576 *

### *Illinois.*

The law of Illinois provides, in the first place, that the local authorities of incorporated cities and villages may “license, regulate, and prohibit” the liquor traffic, subject to the general law of the State. Another statute enables each

\* There appears to have been much abuse of outdoor relief in some parts of Ohio. In the city of Columbus, for instance, more than 11,000 different persons, or one-eighth of the population, are said to have been relieved at the public expense in a single year (ending September, 1891), irrespective of relief in the infirmary and by private charity. Great disparity is shown in the administration of outdoor relief, on comparison of returns from different counties. The system is severely criticised in an address delivered by the Rev. Washington Gladden at the State Conference of Charities and Correction in January, 1892. The following passage indicates in an aggravated form the condition of things which produces an inefficient administration of the liquor law (and other laws) in many cities : “I think we come nearer to a true cause of this increase of the dependent class in our city when we confront the intolerable laxity with which our city government is administered. It cannot be denied, I think, that the laws for the preservation of order and the suppression of injurious vice are very feebly enforced in Columbus. The gamblers, the liquor-sellers, the keepers of the dens of profligacy have free course. Their nefarious business goes right on twenty-four hours in every day and seven days in every week ; there is no restraint upon them. . . . I have no doubt that the enormous excess of outdoor paupers in Columbus is due in a considerable measure to the kind of city government which our citizens seem to prefer. So long as our municipality is organised and re-organised, first in the interest of one political machine, and then in the interest of the other, with but secondary and remote reference to responsible and efficient administration, so long this state of things is likely to continue. The spoilsmen in politics, and they who make a spoil of the poor, work harmoniously together, and the people love to have it so.” The partisan management of public charities was also incisively handled in a paper read by Captain Alfred E. Lee at the same conference.

county board, as regards so much of their county as is not included in an incorporated place, to grant licences on a petition from a majority of the voters of the district.

The law is thus one of local option, exercisable in the towns by the municipality, and in the rural districts by popular vote. In the latter case the option is one to be exercised affirmatively, licences not being issuable until the decision of the majority has been given in favour of their issue.

In Chicago, under the city ordinance, licences are granted as of course, on payment of the licence fee, subject only to refusal or revocation for bad character or misconduct. Dissatisfaction is felt in some quarters that the will of the people cannot be in any way expressed and enforced in the city, as it is in the rural parts of the State, for the purpose of limiting the number and the situation of the dramshops.\*

The following is a summary of the law :—

City Councils and Boards of Trustees in villages have power to license, regulate, and prohibit the selling or giving away of intoxicating liquor, subject to the general law of the State ; and to punish the selling or giving to minors, insane, drunkards, and intoxicated persons.

There is a penalty not exceeding \$1,000 and imprisonment not exceeding one year (one or both) for adulterating liquor intended for drink with cocculus indicus, vitriol, grains of paradise, opium, alum, capsicum, copperas, laurel-water, logwood, brazil-wood, cochineal, sugar of lead, or any other substance which is poisonous or injurious to health.

A fine not exceeding \$200 is enacted for keeping open on Sunday any place where liquor is sold or given away.

Selling on election days is prohibited.

*Liquor Licensing Act of 1874.*—"Dramshop" means a place where liquor is retailed in quantities less than one gallon.

For selling without licence the penalty is—fine \$20 to \$100, or imprisonment ten to thirty days, or both.

A local authority is not to grant a licence except on payment

\* Attention was drawn to this point by Mr. C. C. Bonney (President of the International Law and Order League) at the thirteenth annual meeting of the Citizens League of Chicago (1891).

of at least \$500; or, for malt liquor only, at least \$150; but this does not apply to pharmacists selling for medicinal, mechanical, sacramental, and chemical purposes only.

The County Board of each county may grant licences to keep so many dramshops in their county as they may think the public good requires, upon the application, by petition, of a majority of the legal voters of the town, if the county is under township organisation; and, if not under township organisation, then of a majority of the legal voters of the election precinct or district where the same is proposed to be located, and on payment of such sum as the board may require, not less than \$500 per annum (or \$150 as the case may be). The board is not to issue a licence in or within two miles of any incorporated city, town, or village in which the corporate authorities have authority to regulate, or in any place where the sale of liquor is prohibited.

A person having a beer licence, on conviction of selling other liquor, is liable to fine or imprisonment, or both (and may be proceeded against summarily for the fine), and "a conviction under this section shall forfeit the licence held by the defendant, and the court rendering judgment upon such conviction shall in such judgment declare a forfeiture of such licence."

"Any licence may be revoked by the County Board whenever they shall be satisfied that the person licensed has violated any of the provisions of this Act, or keeps a disorderly or ill-governed house or place of resort for idle or dissolute persons, or allows any illegal gaming in his dramshop, or any house or place adjacent thereto."

Every licensee must enter into a bond in \$3,000 with two sureties, being freeholders in the same county, conditioned that he will pay to all persons all damages that they may sustain, either in person or property or means of support, by reason of the licensee selling or giving away intoxicating liquors.

Anyone selling or giving liquor to (or procuring it for) a minor without the written order of his parent, guardian, or family physician, or to (or for) any person intoxicated, or in the habit of getting intoxicated, is liable to fine and imprisonment.

Places where liquor is sold in violation of the Act are declared to be common nuisances. The keeper, on conviction, is subject to fine and imprisonment (twenty to fifty days), "and it shall be part of the judgment, upon the conviction of the keeper, that the place so kept shall be shut up and abated until the keeper shall give bond,

with sufficient security to be approved by the court, in the penal sum of \$1000, payable to the people of the State of Illinois, conditioned that he will not sell intoxicating liquors contrary to the laws of this State, and will pay all fines, costs, and damages assessed against him for any violation thereof."

Every one who by the sale of liquor causes the intoxication of any person is liable to compensate any person who takes charge of him.

Any relation, employer, or other person injured in person, property, or means of support by any intoxicated person, or in consequence of the intoxication, habitual or otherwise, of any person, has a right of action against any person who wholly or partly caused such intoxication by selling or giving liquor. If the damages claimed do not exceed \$200, proceedings for their recovery may be taken before a magistrate.

The penalty for drunkenness is a fine not exceeding \$5, and, on subsequent conviction, not exceeding \$25. The justice of the peace may remit the fine in whole or in part if satisfied that the public welfare and the good of the offender require it.

Common drunkards are deemed vagabonds, and may be imprisoned from ten days to six months.

Habitual drunkenness for two years is a cause for divorce.

When a person by excessive drinking, gaming, idleness or debauchery, so wastes his estate as to expose himself or his family to want or suffering, or any local authority to expense for his support, proceedings may be taken, as in the case of insanity, for the appointment of a conservator, who is given the management of his property, the custody of his person, and, if necessary, the custody and education of his children.

The ordinances of the city of Chicago make provision for the licensing of dramshops.

Licences are required to be granted by the mayor to persons furnishing satisfactory evidence of good character, and entering into a bond of \$500 with two sureties, to observe the ordinances, and keep closed on Sunday all doors opening on the street.

The licence fee is \$500. A separate beer licence at \$150 has been abolished.

Licences are not to be granted in any prohibitory area which becomes annexed to the city.

Any licence may be revoked by the mayor when he is satisfied



that the licensee has violated any city ordinance or any condition of his bond.

The punishment for selling without licence is fine from \$20 to \$100.

Licensed premises are required to be closed from midnight to five a.m.

Druggists are required to take out a permit to enable them to sell liquor for medicine, etc., and must record all sales (except on a doctor's prescription).

The relative of a drunkard may give notice to saloon-keepers not to supply him. Sales to minors, drunkards, and intoxicated persons are prohibited; and any minor, drunkard, or intoxicated person who seeks to obtain drink is liable to a fine.

On complaint by two or more persons that a saloon is a resort of disreputable persons, the mayor is required to investigate the complaint, and, if true, to revoke the licence. On a report to the same effect from the police department, he must at once revoke the licence.

One per cent. of the licence fees is given to the police and firemen's relief fund.

Ten per cent. goes to the Washingtonian Home of Chicago.

In recent years the licence fees in Chicago have twice been raised—from \$52 to \$103, and from \$103 to \$500—with the result in each case of a certain diminution in the number of licences issued; and it has been claimed that the raising of the fees did much to remove "the pest of the home, the bar in the family grocery," and to weaken the position of the saloon in politics.

The \$500 fee was charged in pursuance of an Act of the State Legislature, known as the "Harper High-Licence Law," which was passed in 1883. In the following year a Bill for again reducing the fee was reported by the Committee on Licence, but was afterwards dropped. A minority report, made by three members of the committee, of whom Mr. Harper, the author of the High-Licence Law, was one, contained the following passage:—

"The advantages and pecuniary benefits of this" (*i.e.*, the high-licence) "law are not only wonderful, but almost incalculable. In

the city of Chicago the revenue arising therefrom has been increased from \$200,000 to \$1,750,000, and the city has reduced the number of saloons from 3,800 to 3,600, or 200 less, while the population has increased from 450,000 to 700,000, and has added to the police force 300 men. In Hyde Park, a suburb of Chicago, two years ago, 214 saloons paid \$11,000, and since this law has been in operation the saloons have been reduced nearly one half, while the population has largely increased, and the revenue from 127 saloons is \$71,000, nearly tenfold more; and the number of arrests for the two years prior to the passage of this law was 1,895 as against 678 arrests since.

"In Springfield (the capital city), the number of saloons has been reduced from 157 to 104, closing up 53 (or 33 per cent.), while the revenue has been increased from \$15,700 to \$52,000, an increase of \$36,300, or 231 per cent., notwithstanding the reduction of saloons and the increase of population of the capital city.

"In Peoria, before this law went into effect, there were 220 saloons, paying a revenue of \$22,000; and since then, with an increased population, and about half the number of saloons—say 126—the city receives \$63,000, or nearly thrice as much as heretofore, and the number of arrests have been 194 less than before this law was enacted."

In the same report the number of saloons throughout the State was said to have been reduced from 13,000 to 9,000, while the advantages of a revenue raised from \$700,000 to \$4,500,000 were dwelt on.

It will appear, however, from the following table that, so

Year.	Number of Saloons in Chicago.				Revenue.
					Dols.
1880 ...	3,245	(licence fee \$52)	...	...	168,740
1881 ...	3,603	"	...	...	182,226
1882 ...	3,919	"	...	...	195,490
1883 ...	3,777	(licence fee \$103)	...	...	385,864
1884 ...	3,184	(licence fee \$500)	...	...	1,463,700
1885 ...	3,075	"	...	...	1,721,474
1887 ...	3,600	"	...	...	...
1890 ..	5,500	"	...	...	...

far as Chicago, at least, is concerned, the actual limitation in the number of saloons was not very considerable; and, after all due allowance made for increase of population, the number in 1892 was very great—about 7,000.

“The Citizens’ League of Chicago for the Suppression of the Sale of Liquor to Minors,” incorporated in 1878, limits its operation to the enforcement of the law which forbids the sale of liquor to minors or to drunkards. It does not undertake the prosecution of offenders against the Sunday-closing law, nor does it identify itself with any political organisation, or, as a rule, take part in any movement for legislative interference with the liquor trade. The agents of the League are instructed to receive complaints, collect testimony, and prosecute the cases openly in the courts. They seek out violations of the law by visiting the saloons, and are in daily attendance at all the police-courts in the city for the purpose of investigating every case where a minor or a drunkard is brought up for intoxication, and taking proceedings against those who supplied the liquor. As the result of the League’s efforts, it is claimed that there are fewer boys and girls to be found in the saloons of Chicago in proportion to its population than can be found in those of any other city in the world where liquor saloons are licensed. The magistrates and police are in full sympathy with the movement.

Complaint, however, has been made in some of the annual reports of the League that the grand jury and the municipal authorities had not lent it the support which it was entitled to expect. Licences have been granted to unworthy persons, and have not been revoked when good and sufficient reasons for their revocation have been presented; and grand juries, consisting largely of saloon keepers and ward politicians, have refused to indict their brethren.\*

At the time when the League commenced its operations

\* For several years, it is said, there were from three to seven saloon keepers on each grand jury, and few indictments could be obtained.

the law forbidding the sale of liquor to minors was a dead letter in Chicago. Children were freely admitted to the saloons; and at the same time, and, it is thought, largely in consequence of this abuse, there was a great deal of juvenile crime. The efforts of the League have, it is claimed, had a marked effect in diminishing this evil. The figures following, however, show a large progressive increase so far as arrests are concerned, though it is necessary to make due allowance for the vast increase of population, which in 1880 was, according to the census, 503,000, while in 1890 it had risen to 1,100,000:—

	1877.	1885.	1886.	1887.	1888.	1889.	1890.	1891.
Number of minors arrested for all offences	6,818	6,550	6,841	7,539	8,923	9,330	11,093	13,111
Cases prosecuted by Citizen's League ...	...	1,287	2,042	1,973	1,961	1,649	1,772	1,306

The refusal of licences in Chicago to persons of bad character rests at the mayor's discretion. Some mayors have exercised their power with firmness, and have been willing to give ear to representations made to them by citizens and by bodies such as the Citizens' League. Under other administrations the weeding process has but partially been applied. The League, in their report for 1888, state that high-licence has greatly aided their work, by reducing the number of saloons. They urge that the licence fee should be further increased from \$500 to \$1,000, but express the opinion that a still more effective limitation would be a statutory restriction on the number of saloons to one for each five hundred inhabitants.

It does not, however, appear that any active movement has been undertaken for securing such a reform, and the

political influence of the trade would undoubtedly be powerfully exerted against it.

The following figures are taken from the annual police reports of Chicago :—

CHICAGO (population, 1,099,850).

	1883.	1884.	1885.	1886.	1887.	1888.	1889.	1890.	1891.
Arrests for disorderly conduct (including drunk, and drunk and disorderly) ...	18,218	23,080	25,407	26,067	27,632	31,164	27,536	37,063	41,463
Arrests for violation of saloon ordinance	40	146	192	535	570	381	223	383	522
Total arrests .. ...	37,187	39,434	40,998	44,261	46,505	50,432	48,119	62,230	70,550
Intoxicated persons assisted home ..	673	727	849	733	1,336	1,260	1,417	1,951	2,201
Total number of police force ...	637	924	924	1,032	1,145	1,255	1,624	1,900	2,306*

In 1883, the number of arrests for drunkenness alone was 2,355, and for being drunk and disorderly 843. In subsequent years the figures for these offences are not given separately ; but judging from the returns of 1883, it would seem that drunkenness was probably charged in a comparatively small minority only of the cases included in the category of "disorderly conduct."

The Citizens' League of the town of Lake, which was annexed in 1889 to Chicago, appears to have laboured on broader lines than the Chicago League, and to have had remarkable success in diminishing the evils of drink. Lake is a comparatively small town, but one which has had a very rapid development, as appears from the following statement :—

	1881.	1885.
Population ... ..	23,000	60,000
Number of saloons ... ..	265	201

\* The total cost of the police in 1891 was \$2,622,000.

Owing to the efforts of the League the number of saloons was actually diminished, notwithstanding the immense increase of population; and a steady improvement is shown by the following figures of arrests for drunkenness, and for being drunk and disorderly:—

1881	...	...	...	...	...	...	...	620
1882	...	...	...	...	...	...	...	585
1883	..	...	...	...	...	...	...	500
1884	...	...	...	...	...	...	...	420
1885	...	...	...	...	...	...	...	400

Vagrancy showed a like steady decline.

I was not able to obtain definite information from official sources regarding the extent to which the Local Option Law has operated in a prohibitory sense; nor were the anti-liquor organisations able to supply this information in detail. There are, as I am informed, a number of counties, especially in the southern part of the State, which have no saloons in the rural parts, and also a number of counties in which nearly all the towns have voted against licence.

An investigation undertaken by the *Christian Union* in 1885—6, for the purpose of comparing the effects of high-licence and local option in Illinois with those of prohibition in Iowa, showed that, of seventy-six towns in Illinois from which answers to inquiries were received, twenty-six were under prohibition, the largest of these being Canton, credited by the census of 1890 with a population of 5,600, Oak Park (4,770), and Sandwich (2,500). Some other towns, including Jacksonville (12,900), Rockford (23,500), and Streator (11,400), after shutting up their saloons for a time, had reverted to licence.\*

While a certain number of small towns have thus prohibited the sale of liquor, it does not appear that local prohibition has taken firm root in the State to any very widespread extent, or that general public attention is much directed to its

\* *Christian Union* (New York), January 14th, 1886.

further development. Outside the rural districts and a limited number of small towns, it has had little or no success.

Other places have gone beyond the minimum requirements of the Harper Law in the direction of high-licence. In a good many towns, even before the passage of that law, the fee was \$500; and at the present time it is by no means uncommon to charge \$1,000, a course which, whatever effect it may have on the amount of drunkenness (as to which opinions often differ, and the experience of different places does not seem to be uniform), has in the great majority of cases, if not always, reduced the number of licensed retailers.

Galesburg and Edwardsville may be mentioned as instances of towns in Illinois having a \$1,000 licence fee.

A few towns are, by their charters of incorporation, prohibited from issuing licences. In one case, that of Evanston, near Chicago, founded as the site of a college endowed by private munificence, no saloon may be opened within four miles of the college building. An attempt made in the legislative session of 1893 to obtain the repeal of this restriction was defeated.

### *Wisconsin.*

Local option has been in force in this State since 1889. An attempt to make the county the area of adoption was defeated, and the law as it stands gives to each municipality and township the right of deciding the question for itself.\* A peculiarity of the law in Wisconsin is its extension of the principle of local option to the question of the amount of the licence fee to be paid in each locality in which licences are granted. The law fixes a minimum fee, and authorises a popular vote to be taken on the proposal to increase the amount within certain limits; "high-licence" being thus made conditional to local option.

\* A Bill to repeal the local option law was in 1893 defeated in the House, 38 to 34.

Town boards, village boards, and common councils, of towns, villages, and cities, may grant licences (subject to the general law of the State) to such persons as they deem proper to keep groceries, saloons, or other places for the retail sale of liquor to be consumed on the premises.

The annual fee for retail on-licences is to be not less than \$100 in purely rural districts, and elsewhere not less than \$200; but the \$100 licence may by popular vote, taken on the requisition of twelve voters, be raised to \$250 or \$400, and the \$200 licence may in like manner be increased to \$350 or \$500.

The fee for off-licences (covering sale in any quantity) is \$200; but this law does not apply to brewers or manufacturers selling in packages or casks, according to the custom of the trade. Pharmacists, also, on payment of a \$10 fee, may be permitted to sell liquor in quantities less than a gallon, for medicinal, mechanical, or scientific purposes only. A pharmacist to whom such a permit is refused may sell for medicinal purposes only, on a medical prescription. Pharmacists are required to keep a record of all sales of intoxicating liquor.

The licence fees are appropriated for the support of the poor.

Every applicant for a licence must enter into a bond for his good behaviour, in the sum of \$500, with two sureties being freeholders and residents of the same county.

The penalty for sale of liquor without a licence or permit is a fine from \$50 to \$100, or imprisonment not exceeding six months nor less than three months. Places where liquor is unlawfully sold are declared public nuisances, and, on conviction of the keeper, may be shut up. Justices of the peace, municipal officers, and constables, on being credibly informed of any offence against the liquor law, are required to take proceedings against the offender, on penalty of a fine of \$25.

When any person shall by excessive drinking of intoxicating liquors mispend, waste, or lessen his estate, so as to expose himself or family to want, or the town, city, village, or county to which he belongs to liability for the support of himself or family, or so as thereby to injure his health, endanger the loss thereof, or to endanger the personal safety and comfort of his family, or any member thereof, his wife, or the municipal or Poor Law authorities may give notice forbidding the sale to him of any intoxicating liquor for a year. The notice may extend to places outside of that in which the person resides, and may be renewed from year to



year. The penalty is a fine of \$50 for each offence ; and a person concerning whom the notice is given may be arrested and made to declare from whom he has received liquor. There is also a right of action for damages on the part of anyone injured in person, property, or means of support, through the intoxication of any such person.

Selling to minors, or intoxicated persons, or within a mile of a hospital for the insane, is punishable as a misdemeanor.

Upon sworn complaint that a licence-holder has violated the law, the licensing authority must summon the person charged, hear the evidence, and on proof of the offence, the licence is to be revoked ; nor may the same person again be licensed for twelve months.

Any person found in any public place in such a state of intoxication as to disturb others, or unable by reason of his condition to care for his own safety or the safety of others, shall upon conviction thereof be punished by a fine not exceeding \$10, or by imprisonment in the county jail for not more than five days, or by both such fine and imprisonment ; but this section shall not abridge the powers of cities and villages to provide a different mode of punishment for such offences.

The sale of liquor on Sunday, or on the day of the annual town meeting or the annual election, is a misdemeanor punishable by fine from \$5 to \$25, or imprisonment not exceeding thirty days or both fine and imprisonment.

The sale of liquor to Indians, "except civilised persons of Indian descent not members of any tribe," is forbidden.

Instruction is required to be given in all schools supported by public money, or under State control, in physiology and hygiene, with special reference to the effects of stimulants and narcotics on the human system.

The local option law provides for a vote being taken for any town, village, or city, on the application of any number of voters equal to 10 per cent. of the number of votes cast at the last general election for Governor. If the majority is "against licence," no person is to "vend, sell, deal, or traffic in any spirituous, malt, or intoxicating liquors or drinks in any quantity whatever" in the town, village, or city, and no licence for such sale is to be issued therein. If any person should vend, etc., "or for the purpose of evading any law of this State give away any spirituous, malt, ardent, or intoxicating liquors or drink" in any place which has carried a

prohibitory vote, his punishment is a fine from \$50 to \$100 and costs, or imprisonment from three to six months ; and on a subsequent conviction within the year both fine and imprisonment. If the majority is "for licence," the Board of Supervisors of the town, or the village trustees or board of the village, or the mayor of the city (as the case may be) may grant licences according to the law of 1885.

There is a general saving for druggists, in accordance with the law of 1887.

The local option law has resulted in prohibition being voted in a considerable number of rural districts, and in some of the smaller towns, as, for example, in Beloit (population 5,000), a manufacturing and college town ; Sparta (3,000) ; Viroqua ; and Lancaster. In Whitewater (3,000) an unsuccessful attempt was made to carry an anti-liquor vote. Evansville (2,000), I am told, has never had a saloon, legal or illegal ; it was settled by a colony of Methodists, and before the days of local option, officers were always elected who refused to grant licences. Many smaller places, especially farming communities in the western and southern parts of the State, have made use of the Act. The east, where the German element is strong, and the north, where a new lumbering and mining section has been opened, are generally in favour of liquor ; and the moral condition of certain towns in the north is said to be bad, liquor being sold in houses of prostitution, and political influence being too often gathered about such places.

Wisconsin has a greater number of foreign immigrants in proportion to its population than any other State in the Union. A large number of these are Germans, all beer-drinkers, though there is not much drunkenness among them, and all opposed to legal restrictions on the trade. Many Scandinavians also (especially Norwegians and Danes) find a home here. The men of this race drink hard liquor, many of them drink pure alcohol, which they procure at the drug stores. There is a good deal of drunkenness among them ; but, in spite of, or

perhaps rather because of, this, some of them adopt advanced anti-liquor views, and join the cause of prohibition. Apart from their drinking habits, the Scandinavian immigrants form a good class of citizens, assimilating themselves to American ideas and institutions more readily, perhaps, than those of any other foreign-speaking race. The Irish are whisky-drinkers; there is a "temperance" section among them, which, however, does not usually advocate general prohibition, but is favourable to local option.

There are many—about 7,000—Indians in Wisconsin, as many as existed before the State was settled. They live partly in reservations which are under the Federal Government; but some are made full citizens, and then come under the State law.

The German influence has made itself strongly felt in this State in the social habits of the people. A resident who has given long attention to the subject expressed to me his belief that there is now considerably less drinking of hard liquor than was practised forty years ago. The German has come and set up his brewery and his beer garden, and has introduced the habit of drinking beer among the native Americans. The consumption of beer has without doubt much increased. Milwaukee is one of the chief centres of brewing in the country. The Germans, however, as already stated, do not often get drunk on their beer; and they do not commit crime due to drink, though some say that they are apt to injure their health, and contract organic diseases in middle life. I have, indeed, heard it said that more actual drunkenness exists among the Germans than is commonly supposed, and that many of them, though not as a rule much inclined to speak out, admit the magnitude of the evil, and would at heart gladly welcome restrictive legislation. I did not, however, find evidence of any extensive prevalence of this view among them. The clergy, both Scandinavian and German, are active in the temperance cause.

The importance of the brewing interest has led to an extensive introduction of the "tied house" system, and the brewer is commonly a surety on the bond of the saloon-keeper.

The liquor laws are not generally, it is said, very well enforced in this State; But I have no detailed information respecting Milwaukee, the largest town, having a population of over 200,000. In Madison, the official capital of the State, a small town of nearly 15,000 inhabitants, 75 liquor licences are issued. No application is refused, except for misconduct, *i.e.*, for misconduct other than the mere breach of regulations, which is general, the law being slackly enforced. Neither in Madison nor in Milwaukee has the option of increasing the minimum licence fee fixed by law been exercised.

In Madison, for a time, owing to great exertions on the part of the Law and Order League, led by a small band of active prohibitionists, Sunday closing and other regulations were made effective. To attain this end, cases were fought with determination through the courts.\* Witnesses were prosecuted for perjury, and convictions were secured by an extensive exercise of the right to challenge jurors, till at last the liquor men surrendered; they came in and undertook to obey the law if they might be let alone. For a time they kept their word pretty well, till the vigilance of the League abated. The vindication of the law had not been obtained without much friction. Detectives employed by the League were mobbed and threatened; and many threatening letters were received by the most prominent of its representatives. Though successful for the time, the League soon began to lose ground.

\* It is worth noting that Wisconsin has abolished the grand jury as part of the ordinary machinery of the criminal law. Cases are sent direct to the petty jury for trial by information of the district attorney, or by the magistrate after a preliminary hearing. Great power is given to the district attorney by this system, a power which doubtless is open to abuse; but it appears to be generally thought that on the whole the discontinuance of the grand jury system has proved advantageous.

Many of those who at first had given it their support did not care to face the odium which fell upon the movement. Even those who had been most prominent in advocating the work held back when they found what a storm they had raised; and the growing feeling that the proper officers are paid to enforce the laws, and that it is not the business of private citizens to contribute their money for enforcing them through private agents, checked the flow of subscriptions. The long and short of the matter was that the League, having for a while been victorious through the efforts of a few men, and having encountered an angry resistance which only a few cared to face, collapsed; and the movement at last came to nothing. One who had taken his full share in the fight, and was himself a thorough-going prohibitionist, expressed to me his conviction that it was useless in the long run for a body of private citizens to band themselves together for the enforcement of a law to which there is much opposition. Such action always creates very great friction, and those who embark on it are sure to have the regular officials against them. On my suggestion that in this case it was impossible to enforce such a law at all, seeing that the appointed officers seemed almost invariably to fail in making it effective, his answer was that this failure was incidental to the general demoralisation of local politics, the great evil with which Americans had to grapple and were grappling. The liquor interest was powerful in the management of the political machine. When the machine was broken up or reformed, and the Government came to be really controlled by the majority, he believed that the administration of the liquor law (even the most prohibitory form of it) would succeed, though the struggle at first would be keen and bitter.

At the time of my visit there was, according to the statement made to me by observers of political and social tendencies, and by prohibitionists themselves, no active movement in this State for any strong anti-liquor reform. The prohibitionist strength appears to remain about stationary; indeed, the highest

prohibition vote ever cast was in 1886. There exists, apparently, a general acquiescence with the law as it is ; and it is recognised by prohibitionists that local option is the most they can expect (for the present, at all events) in Wisconsin. They would, however, prefer to make the county the unit for voting instead of the smaller area.

Prohibitionists in this State are to some extent out of sympathy with that section of their party in the country at large which is in close relationship with the Women's Christian Temperance Union, in consequence of the association of the female suffrage with the anti-liquor movement, a combination which many prohibitionists in Wisconsin disapprove. And while on the one side this cause of discouragement exists, a prominent leader of the anti-liquor movement told me that he had no belief in its advancement by either of the two great political parties. Though the Republicans have in the North been regarded as the opponents, and the Democrats as the friends, of the liquor interest, in the South the positions are reversed ; the truth being that, so far as the North is concerned, the Republicans have merely been more successful than their rivals in bidding for prohibitionist support, and are not as a party really hostile to liquor.

The civil damage law is rendered inoperative, or nearly so, by the requirement of a previous notice in each case to liquor-sellers forbidding them to sell. It is a hard matter for a poor woman in Madison (for example) to draw up 70 or 80 notices, and then to serve them on all the bar-keepers, warning them not to supply drink to her husband. This restriction is the result of a recent amendment to the Act, which originally had a civil damage provision in general terms.

I was told that opium-taking was to some extent prevalent in Wisconsin, especially among women. It is practised very secretly, and the actual extent of it cannot be determined. The existence of the evil was recognised by the State Legislature

in 1891, when an Act was passed prohibiting the sale of opium except on a physician's certificate.

The passing of the "Temperance Instruction Law" was the occasion of a warm dispute; some who had taken an active part in securing the passage of the law advocating the adoption of a text-book of a pronounced prohibitionist tendency. Other counsels, however, prevailed. The law requires that the book should be approved by the State Board of Health; and a physiology primer of a more general character was at last selected.

## CHAPTER XVI.

## COLORADO AND CALIFORNIA.

*Colorado.*

THE liquor legislation of this State contains little that calls for special notice. In two of its municipalities, however—Greeley and Colorado Springs—by virtue of clauses in the title deeds on which the land is held, no saloons are allowed to be licensed. Colorado Springs, now a city of over 10,000 inhabitants, was founded not many years ago by a company from the East, which bought up a quantity of land and laid it out in town plots, stipulating in every conveyance for building purposes that no intoxicating liquor should be sold on the premises. The object—the main object, at all events—which dictated this exclusion of the dramshop, was not the enforcement of abstinence from drink on general temperance grounds, but the preservation of the place from those classes which frequent saloons, and especially the “tough” element from the mining camps. The place was from the first designed to attract, as residents, the higher classes of society. In the result, the objects of the company have been well attained. It is a small city of wealthy and well-to-do people—many of whom have been attracted thither by considerations of health—with retail shops, but no large manufactories, and little to attract the rowdy portions of society. These results are in a great measure attributed to the absence of the saloon. In every deed of conveyance from the company to the purchaser a clause was inserted for the reversion of the property to the company, in the event of the sale of liquor being permitted on it. Only druggists had the right of selling in quantities not less than a quart for medicinal and mechanical purposes. Smaller quantities may



only be obtained on the prescription of a physician. The validity of the prohibitory clause has been tested in the law courts, in the case of a house-owner who was sued for forfeiture of his property for having undertaken to sell liquor; and in the result the forfeiture was upheld. In connection with the hotel, the question arose whether the prohibitory clause was to be enforced to the extent of preventing the supply of wine, etc., to guests, and it was ultimately agreed that this should not be interfered with. But there is no bar. A similar question arose at the club. The liability to forfeiture caused some difficulty in raising money on mortgage, to meet which the company agreed that in case of forfeiture the rights of mortgagees up to half the value of the property should be allowed to stand. Druggists, as a matter of fact, sell unrestrictedly, in quantities of a quart and upwards, under colour of the medicinal and mechanical saving; and the practice is acquiesced in. To some extent, doubtless, they go beyond this, and allow dram-drinking in their shops; but it seems that this evasion of the law does not go on to any great extent; and, practically, drinking on the premises may be said to be almost excluded from Colorado Springs. Colorado City, lying just outside the limits of the Springs, has no lack of saloons.

In Greeley, I understand that the legal restrictions are similar, but that less relaxation is allowed.

The general licensing law of Colorado provides as follows:—

The licensing authority is in cities the City Council, in incorporated towns the Board of Trustees, and elsewhere the Board of County Commissioners.

In cities or towns the Council or Board of Trustees has "the exclusive right to license, regulate, or prohibit the selling or giving away of any intoxicating, malt, vinous, mixed, or fermented liquor within the limits of the city or town, or within one mile beyond the outer boundaries thereof, except where the boundaries of two cities or towns adjoin, the licence not to extend beyond the municipal

year in which it shall be granted, and to determine the amount to be paid for such licence."

The retail licence fee, however, must not be less than \$600 in cities, \$500 in incorporated towns, and elsewhere \$300.

Where the County Commissioners are the licensing authority, they have power to "grant licences to keep saloons, hotels, public-houses, or groceries," and a saloon or grocery is defined to include all places where spirituous or vinous liquors are sold by quantities less than one quart. The board may reject or grant an application in their discretion, and on complaint made to them may revoke a saloon or grocery licence, if satisfied that privileges granted have been abused, or that the licensee has violated the law.

In every case the applicant, before receiving his licence, must execute a bond in not less than \$2,000 with two good and sufficient sureties of the county. The validity of the licence is limited to twelve months.

The licensing authorities may, in their discretion, grant licences for malt liquors only, on payment of half the fee.

There is a civil damage clause, limited to the case of habitual drunkards, after notice not to sell.

The general law enacts the following penalties:—

For selling liquor in quantities less than a quart without a licence, a fine of \$50 to \$200.

For procuring intoxicating liquor of any kind for an habitual drunkard, a fine of \$100 to \$300, or imprisonment 3 to 12 months, or both.

For selling to United States troops, or State militia, except as ordered by the officers under the direction of the War Department imprisonment for 3 months or fine of \$50, together with forfeiture of licence.

For selling between sunrise and sunset on an election day, a fine of \$10 to \$100 for the first, and \$50 to \$200 for a subsequent offence.

Permitting a minor or habitual drunkard to frequent a saloon, or to drink (unless the minor be accompanied by his parent or guardian), a fine of \$5 to \$50, and, on a second offence, forfeiture of licence and disqualification for six months. A minor or habitual drunkard found in a saloon is also to be fined.

Every tavern-keeper, or other retailer of spirits, who sells spirits to a common drunkard, and every person who sells spirits to an Indian, is to be fined \$50.

Sheriffs and constables are required to arrest all persons found violating the law respecting minors or habitual drunkards, and saloon-keepers are to post up conspicuously the words, "No minor or habitual drunkard allowed here."

Under the ordinances of the city of Denver, the fine for drunkenness in a public place is \$1 to \$25, and it is made the duty of the police to arrest offenders and keep them in custody until sober, unless they are taken charge of by relatives or friends. Additional penalties are also imposed for selling without a licence.

By an ordinance passed in 1892, an application for a new licence has to be accompanied by a petition from a majority of the frontagers in the same block. If the premises are at the corner, there must be a majority along both fronts. This requirement, however, does not extend to the annual or half-yearly renewals. No licence can be given for premises within 500 feet of a public school.

The same ordinance provides that liquor is not to be supplied to females, nor may females be permitted to be in saloons or dram-shops for the purpose of drinking, or be employed in the liquor business.

At the beginning of the present year there were about 600 licences ("on" and "off") in Denver, all paying the \$600 fee; no beer licences had been issued. I was informed by a prohibitionist in Denver that the law was not very actively enforced there. The requirement, however, that the majority in a block must assent to the grant of a licence in the block, acts as a check to the grant of licences to disorderly persons; but it seems also to have the effect of relieving the licensing authority, to some extent, of their sense of responsibility in this respect.

As regards the exercise of the licensing power in the State generally, the same informant told me that the County Commissioners were sometimes elected on the prohibition issue. He mentioned two or three counties where no licences were issued by the commissioners, and he thought there might be a few others in the eastern part of the State, the farming region. Colorado, however, is a mining State, and the mining community does not in general favour total abstinence.

*California.*

Under the constitution of California, any county, city, town, or township may make and enforce within its limits all such local police, sanitary, and other regulations as are not in conflict with general laws (Art. xi. s. 11). The effect of this is to give to every municipality and every area of local administration home rule in dealing with the liquor traffic. Cases have been taken through the courts testing the validity of particular ordinances and regulations; but it is now well understood that each local authority has power to make such arrangements as it may think fit, regulating, restricting, or entirely prohibiting the sale of liquor within the area which it controls.

California has thus no general liquor laws, and it is not possible here to enter into any extended examination of the methods of procedure adopted by the various localities throughout the State.

The position of California is, of course, peculiar among American States, since it is the only one in which wine is manufactured on a really extensive scale. In 1889 this State produced nearly 15,000,000 gallons of wine out of a total production in the United States of less than 25,000,000 gallons. According to the statements in the national census of 1890, there is an established home demand for Californian wine to the amount of 1,000,000 gallons a month, and there were exported in 1889 about 312,000 gallons, valued at \$217,000. An increasing quantity is shipped to France, where it is transformed into "French" wine; and much of it returns in that character to the United States. Viticulture, it is said, promises to increase in the near future. In 1889 California contained 155,000 acres of bearing and 45,000 acres of non-bearing vines, grapes being raised for the table, for raisins, and for wine.

The city ordinances of San Francisco provide as follows :—

“xxxix. Every person who sells spirituous or malt or fermented liquors or wines, in less quantities than one quart, shall be designated as a ‘retail liquor dealer,’ and as a ‘grocery and retail liquor dealer,’ and shall pay licences as follows :—

“First.—Those making sales to the amount of \$15,000 and over per quarter shall pay a licence of \$41 per quarter.

“Second.—Those making sales of less than \$15,000 per quarter shall pay a licence of \$21 per quarter, provided that on and after January 1, 1886, no licence as a ‘retail liquor dealer,’ or as a ‘grocery and retail liquor dealer’ shall be issued by the collector of licences, unless the person desiring the same shall have obtained the written consent of a majority of the Board of Police Commissioners of the city and county of San Francisco, to carry on or conduct said business ; but in case of refusal of such consent upon application, said Board of Police Commissioners shall grant the same upon the written recommendation of not less than twelve citizens of San Francisco owning real estate in the block or square in which said business of ‘retail liquor dealer’ or ‘grocery and retail liquor dealer’ is to be carried on. All licences issued under this section shall be known and designated as ‘retail liquor dealer’ and ‘grocery and retail liquor dealer’ licence.

“Third.—Every person who sells cider, sarsaparilla, ginger-pop, or soda or mineral water, except from a fountain, in quantities of less than one quart, shall, in addition to the licence required to be paid, be subject to the conditions and provisions contained in subdivision three of this section. No licence shall be required by physicians, surgeons, or apothecaries, or chemists, for any wines or spirituous liquors they may use in the preparation of medicines, or which may be dispensed by them for medicinal purposes, provided, however, that the same shall not be sold by the glass or be consumed on the premises of the vendor.

“Fourth.—Every person violating any of the provisions of this section, or falsely representing himself as being a citizen of San Francisco, and owning real estate in the block or square therein specified, shall be guilty of a misdemeanor.”\*

\* Order No. 1589 (July 28, 1880), as amended by order No. 1845 (January 19, 1886). The legality of this ordinance was tested in a case in which the United States Circuit Court gave judgment against the ordinance, but on appeal to the Supreme Court this decision was reversed.

Licences are issued for the period of three months, and the penalty for infringement of the above order is a fine not exceeding \$1,000, or imprisonment not exceeding six months, or both.

It will be seen from the foregoing order that the grant or refusal of a licence rests primarily at the discretion of the Police Commissioners, but, in case of their refusal, the licence may still be obtained on a recommendation being signed by twelve landowners in the same block. As a matter of practice, the commissioners require every new application to be backed by the support of some persons in the block.

It is further provided that bar-rooms must be closed between midnight and 6 A.M. \*

By order No. 1587, "prohibiting offensive trades, occupations, and nuisances, and defining misdemeanors," it is provided that no person shall be drunk in a public place or place open to public view ; or be on any public highway or in any public place in a state of drunkenness or intoxication, or be on any private premises or in any private house in a state of drunkenness or intoxication to the annoyance of any other person. And the penalty for breach of any of the numerous provisions of this order is a fine not exceeding \$1,000, or imprisonment not exceeding six months, or both.

Under a general law enacted in 1890, no liquor may be sold or given to a minor under 18 years. No minor may be permitted to enter a saloon or public place where liquors are sold, under penalty of a fine of \$100 to \$300.

The effect of these ordinances is to fix the annual licence fee for saloons in San Francisco at \$84, since but few licences are taken out on the higher scale of \$41 a quarter. The number of saloons is very great, in 1890 about 3,100, or a ratio of one saloon to 96 inhabitants, a higher ratio probably than in any other city in the country. In 1892, 13,435 quarterly retail liquor licences were issued, whence it would appear that the number of liquor shops had grown to about 3,350, but according to the police report the number on the

\* Order No. 1587, as amended by Order No. 1785 (September 26, 1884).

30th of June, 1892, was 3,192. This superabundance of dramshops, together with the more than doubtful character of many of their proprietors, has given rise to much dissatisfaction ; and a movement has arisen, hitherto unsuccessful, for a reform in the direction of an increased licence fee, and a diminution in the number of licences.

A petition, said to have been signed by nearly 1,200 of the leading business men of the town, was presented in 1886 to the Board of Supervisors, urging that no licences should be issued to any person of bad character, and that the fees should be fixed at \$1,000 for the retail sale of liquors generally, and \$500 for wine and beer. This petition was actively supported by the Society for the Suppression of Vice in an address to the citizens of San Francisco, drawing attention to the increase of crime and suicide, and the demoralisation due to the excessive consumption of liquor.

A body of citizens, organised under the title of the High Licence Association, have advocated a licence tax of \$600, and estimated that its effect would be to reduce the number to about 1,500 (which would still leave the ratio of saloons to population pretty high), while it would at the same time increase the revenue by more than \$600,000, and reduce the city expenses in connection with crime, police, and pauperism, by at least \$100,000.

The advocates of reform further hoped that the City Legislature would impose such other restrictions as good government and good morals demanded, foremost among which restrictions was mentioned the separation of the saloon business from the groceries. In regard to these "corner groceries," it is urged that they "are the most active and successful in the work of making drunkards and destroying homes ; in them boys and girls are taught to drink ; servants are bribed with drink, and the wife of many a mechanic and labourer is by them supplied with liquor, which is charged in the family account as 'flour,' 'sugar,' etc. ; and here many a

working man, calling to settle a family bill, is deluded into a game of cards and whiskied or beered up until the cunning proprietor has secured the whole or a considerable portion of the hard earnings that should, and otherwise would, have been applied to the purchase of additional necessities or comforts for the family, or laid by for some rainy day. It may be accepted as a fact that the worst enemy of the working man and his family—the enemy that keeps him and his family in poverty and interposes the greatest obstacle to his prosperity—is the corner grocery bar.”

Still more recently the grand jury of the city and county of San Francisco, in their published report upon the various departments of the City Government, dated December 21st, 1892, make the following observations :—

“We also recommend that the licence on the sale of liquor should be increased from \$21 per quarter to \$51. This is too moderate an increase to be called a high-licence, but is suggested as an experiment in that direction. It is the opinion of the jury that a much higher licence would be advantageous in every way. The chief of police favours high-licence as an effective help to his department in the suppression of crime. He believes it would result in closing up many of the worst places in the city. Its results elsewhere justify this belief.

“The licence collector reports 13,435 quarterly retail liquor licences issued during the year. Of these 3,600 were for the combined sale of groceries and retailing of liquors. These corner groggeries we regard as one of the very worst features of our city life. No bar should be permitted where groceries are sold. It is a great source of corruption to the young, and a combined convenience and temptation to which no community has any right to subject its weak members.

“We recommend the needed legislation to separate the sale of groceries and the retailing of liquor, in addition to the moderate increase of licence above-mentioned.”

The total number of arrests by the police of San Francisco for the year 1889-90 was officially stated to be 23,549,



including 11,618 for drunkenness. For the year 1891-2 the offences for which arrests were made numbered 29,259, including 14,652 cases of drunkenness (besides 544 "common drunkards"), and 195 breaches of the liquor law. The chief of police remarks that the increased number of arrests for drunkenness (2,542 more than in 1890-1) is to be accounted for by the increased number of police and the use of the patrol waggon and signal system. San Francisco is said to have a higher suicide rate than any other American city. The police force in 1892 numbered 456 men, claimed to be proportionately a smaller force than in any other seaport city in the United States.\*

Ten or twelve years ago an account (which has not been published) was taken of the nationality of saloon-keepers in San Francisco, when it was found that of about 2,600 licensees, 1,250 (in round numbers) were Germans, 650 were Irish, and only 200 were native Americans. A great number of nationalities were represented, including more than 100 French.

Restrictive ordinances similar to those of San Francisco are common in other towns of California; but, where each place has power to settle its own regulations, uniformity is of course not to be expected. Among other things the licence fee is a varying quantity, rising in some instances as high as \$1,000. In Los Angeles the fee is \$50 a month, paid monthly in advance; and the applicant is required to get the support of three-fourths of the frontagers in the same block.

California contains fifty-four counties, some of them being of very great extent, and has a population averaging only eight to the square mile. It contains nine towns with populations of 10,000 and upwards. I heard altogether of two counties and about forty towns or districts, which by the operation of local ordinances either were or had in recent years been under prohibition.

The counties are Modoc and Sutter, the former in the

\* This must be exclusive of Portland, Maine.

north-eastern corner of the State, and the latter a small county in the interior, north of Sacramento. With the exception of Alturas (1,013) in Modoc county, neither of them contains a town with a population of as much as 1,000.

The other places referred to are—Pasadena (4,882), Alhambra (808), Artesia, Compton (636), Covina (93), Garden Grove (126), Monrovia (907), The Palms, Pomona (3,634), Redondo (603), San Dimas, South Pasadena (623), Whittier (585), Potter Valley (219), Willits (815), Palermo, Buena Park, Orange (866), Westminster (238), El Modena, Tustin, Lompoc (1,015), Ontario (683), Coronado Beach, Del Mar, Escondido (541), Elsinore, Fallbrook, Piedmont, San Jacinto, San Marcos, Wildomar, Valle Vista, Winchester, Ceres (206), Orange Vale, College City (387), Riverside (4,683), Chico Vecino, Pacific Grove (1,336).

Some at least of these places have a special character as residential centres and winter resorts for the wealthier classes, and the desire to maintain that character and keep up the value of real estate is believed to have had some influence in determining the local authorities to keep out the saloon, while at the same time prohibition is not pressed to the extent of interfering with the convenience of tourists and visitors at the hotels.

The prohibitory ordinance of Pasadena was passed in 1887, and runs as follows :—

“ It shall be unlawful for any person or persons either as owner, principal, agent, servant or employee, to establish, open, keep, maintain, or carry on, or assist in carrying on, within the corporate limits of the city of Pasadena, any tippling house, dramshop, cellar, saloon, bar, bar-room, sample-room, or other place where spirituous, vinous, malt, or mixed liquors are sold or given away. . . . Provided that the prohibition of this ordinance shall not apply to the sale of liquors for medicinal purposes by a regularly licensed druggist upon the prescription of a physician entitled to practise medicine under the laws of

California, nor shall such prohibition apply to the sale of such liquors for chemical or medicinal purposes." \*

Riverside, one of the places included in the foregoing list, has abandoned prohibition and resorted to high-licence. It has, as I am informed, a single saloon paying a fee of \$1,000 a year.

Another small town, Pomona, adopted in January, 1892, an ordinance of peculiar stringency, by which any person concerned in keeping a liquor shop, or a place where liquor is distributed to members of an association, is to be imprisoned for ten days and fined \$150 for every day on which the offence is committed. There is a saving for wholesale dealers in wine, and for druggists selling on a medical prescription, and for the sale for chemical and mechanical purposes. Any person visiting an illegal liquor shop or club is to be fined from \$50 to \$100 or imprisoned for not more than fifty days, or both; and persons suspected of violating the ordinance are to be put under police surveillance.

\* The legality of this ordinance was disputed, and the case went to the Supreme Court of California, which decided (by six Judges to one dissenting) that the ordinance was good, being within the powers conferred by Art. xi. Sec. 11 of the State Constitution. It was objected to on the ground that it deprived the liquor dealer of his property without due process of law, and was therefore unconstitutional. It was also urged that the ordinance was "in conflict with general laws" (within the terms of the above section), inasmuch as the Legislature had passed Acts for the purpose of encouraging the manufacture of wine and brandy in the State. It was, however, held that this legislation did not detract from the power of municipalities to regulate or prohibit the sale of intoxicating liquors in bar-rooms. The decision was expressly limited to the question of the right of the city to prevent "tippling houses, dramshops, and bar-rooms." (Ex parte Campbell, Pomeroy's California Reports, vol. 74, p. 20.)

## CHAPTER XVII.

## GEORGIA.

## (Local Option. High License.)

THE State of Georgia has a three-fold claim on the attention of students of liquor legislation in the United States. In the greater part of the State, outside of the more important centres of population, the sale of liquor is altogether forbidden ; its chief city, after a temporary experience of prohibition, which it abandoned, has now a licensing law with special features ; and one of its towns has made probably the first experiment in the country of a system resembling, in some respects, the Swedish method, the municipality taking over the liquor traffic into its own hands.

Local prohibition has been brought about in three distinct ways : by the operation of the general local option law ; by special prohibitory or local optional legislation, affecting particular areas ; and by Corporation Acts conferring powers of local self-government on individual municipalities.

The general local option law of Georgia was enacted in 1885, and provides in substance as follows :—

## 1885. CHAP. 182. GENERAL LOCAL OPTION LAW.

A local option election is to be held on the application of one-tenth of the qualified voters in any county. The election is to be distinct from any other election, and is not to be held in the same month with any general election. If the majority is "against the sale," no person within the county may "sell or barter for valuable consideration, either directly or indirectly, or give away to induce trade at any place of business, or furnish at other public places any alcoholic, spirituous, malt, or intoxicating liquors, or intoxicating bitters, or other drinks which, if drank to excess, will produce intoxication."

There is a saving clause for domestic wines and cider (but not to be sold in bar-rooms by retail), and for sacramental wine, and

for the sale of pure alcohol by druggists for medicinal, art, scientific, and mechanical purposes.

Elections under this Act are not to be held more frequently than once in two years, and no such election is to be held for any county, city, town, or other place having prohibition under a local law.

A great number of local Acts have been passed making special provision for prohibiting or regulating the liquor traffic in particular counties or localities. Thus, without going further back, I find that

40	such	Acts	were	passed	in	1884-5
24	„	„	„	„		1887
11	„	„	„	„		1888
67	„	„	„	„		1889
and 17	„	„	„	„		1890-1

About 160 local liquor statutes were thus passed within eight years. Such Acts may roughly be classified as follows :—

1. Acts prohibiting the sale of liquor in a county, town, or district, or repealing such prohibition, sometimes prohibiting for a county exclusive of a particular town, and sometimes subject to a power of reversal by popular vote.\*

2. Acts providing for submission of the question to local option. The passing of Acts of this class has been discontinued since the general local option law of 1885.

3. Acts prohibiting within a certain distance (varying from one to five miles) of a particular church or place of education, such Acts being very numerous.†

4. Acts regulating the traffic in a county or town ;

\* For example, Acts were passed in 1889 prohibiting the sale of liquor in Polk and DeKalb counties ; Wilks county the same, exclusive of the town of Washington. Campbell and Clayton counties have Acts excluding the manufacture. In 1889 prohibition in Smithville (pop. 500), in Lee county, was repealed, and in Pike county it was repealed as regards Barnsville (1,800) and Molina (200).

† In 1891 a general Act was passed forbidding the sale of liquor within three miles of any church or schoolhouse, except in incorporated towns.

sometimes requiring each application for a licence to be supported by a majority, or by two-thirds of the freeholders within the licensing area, or within three miles of the premises\*; sometimes introducing a high or even prohibitory licence fee (in one county it is fixed at \$10,000).†

5. Acts providing for the election of an agent to sell liquor for medicinal and mechanical purposes.‡

In addition to this large body of special liquor legislation, a great quantity of Corporation Acts are passed, many of which confer large powers of self-government on particular municipal corporations, including often the power to make ordinances regulating or prohibiting the liquor traffic.

Georgia has an area of 59,000 square miles, and is therefore slightly larger than England and Wales. According to the census it had in 1890 a population of 1,837,000, or about thirty-one inhabitants to the square mile. It contains ten towns of over 5,000 inhabitants, of which five have over 10,000, and two, Atlanta and Savannah, over 40,000.

No official returns are made showing the results of elections under the local option law, nor is any official information forthcoming to show the extent to which prohibition has been adopted throughout the State. From information, however, received through private sources, I believe that it may be stated that of the 137 counties into which the State is divided, prohibition is the law in just about 100, most of them rural counties containing no considerable town. The number has been slightly greater (about 108), but a few counties have gone back to licence. In

\* In Laurens two-thirds, and in Effingham county a majority, of freeholders residing within three miles; in incorporated towns and villages in Harris county two-thirds of freeholders in the area affected.

† Wayne county \$1,000, Telfair county \$5,000, Emanuel county \$10,000. A prohibitive licence fee has sometimes been passed when a proposal for direct prohibition would not have received the necessary support.

‡ Acts of this character have been passed within the past few years for Oglethorpe, Hart, Newton, and Emanuel counties.

some of the "dry" counties, however, exception is made for certain towns; and it may be said generally that the larger towns do not put themselves under prohibition.

As regards enforcement, the substance of the information which I received—mainly from persons favourable to prohibition—was to the effect that the law was fairly well enforced in most places where the sentiment in favour of it was strong enough. There is, of course, a "jug" trade (*i.e.*, an introduction of liquor in bottles, jars, and casks for private consumption); but this is legal and cannot be stopped. In some places there are "blind tigers,"\* but on the whole drinking, it is said, is much checked. As regards the "jug" business, this, in the opinion of one of my informants, is apt to be a diminishing quantity; when prohibition is new there is much of it, but with the lapse of time the demand decreases, and less liquor is introduced in this way. In proof of this tendency, he mentioned the experience of an express company in a place where prohibition had been voted, and where the agent told him that at first they carried a large number of jugs of whisky, a service which had since gradually and constantly fallen off. On the subject of the "jug" trade, more will have to be said in connection with prohibition in Atlanta.

One gentleman—a prohibitionist, exceptionally well posted on the liquor laws of this State—told me that prohibition was apt to be less well enforced in some of the counties which had adopted it under the general Local Option Act, than in those having special Acts. The reason he assigned was that a special Act could not be got through the Legislature without a petition; and, if a counter-petition was presented, the promoters of the Bill had to satisfy the Legislature that they were in the majority. Consequently a special Act was not passed without a fairly thorough canvass of public opinion in the area affected, nor unless that opinion declared itself decidedly in favour of

\* The usual term in the South for illegal liquor shops.

the proposed legislation. An Act passed under these circumstances was in general, he said, pretty well carried out. Under the general law a vote was sometimes forced on by injudicious enthusiasts, sometimes carried hastily, and the result proved failure.

A lawyer, who some years ago held office as Judge of the Circuit Court for three counties near the centre of the State, told me that when he went into one of these counties to hold his first court a local option election was being held. The majority declared against licences; and on his last circuit, before the expiration of his term of office, he found a marked diminution of crime. Only two prisoners were brought up for trial (one for homicide and one for breach of the prohibitory law); and the sheriff's fees for the year on account of prisoners in gaol, which in former times had been from \$300 to \$500, were only \$20—practically nothing. The county in question has had prohibition ever since, and is said to be quite steadfast in it. It contains an agricultural population; a good many negroes, though it is not a "negro county," the whites being in the majority; and no large town (the chief place was credited with a population of 803 in the census of 1890). Those who want liquor get it by the bottle or in larger quantities from outside, and there is said to be no considerable violation of the law.

In this as in other States, the strictness with which prohibition is enforced varies in different places, according to the zeal of the local officials. Elections sometimes turn on the question of a strict or slack enforcement.

The presence of the negro element in the population of the South is on all sides recognised as giving a peculiar turn to the liquor question in this part of the country; and it becomes specially urgent in the agricultural districts, where the negroes are often in the majority and always numerous, and where the "cross-road doggerly" is the breeding-ground of much that is demoralising, and that may be a public danger.



The city of Atlanta was under prohibition for two years, Fulton county (which includes Atlanta) adopting it by popular vote under the general local option law, in 1885, and renouncing it after a keenly-fought contest in 1887.

A cause which materially contributed to the voting-out of the saloon, was the very unsatisfactory condition of the city under the old licence law. The number of dramshops was large, and many of them were of a disreputable kind ; drunkenness and disorder prevailed ; the liquor business was largely controlled by men of indifferent character, and the liquor interest ruled in municipal affairs. This state of things led men to support the prohibition movement who were not in a general way prohibitionists, but who sought to strike a blow at the prevailing misgovernment. The saloons were voted out by a majority of about 225 votes in November, 1885.

In the vigorous and somewhat bitter campaign which preceded the re-submission of the question to the popular vote two years later, the results of prohibition in Atlanta were fully discussed by friends and opponents from their respective standpoints.\* The prohibitionists argued that the law had not had a fair trial, inasmuch as licences current when the vote was taken had been allowed to continue in force until the expiration of the period for which they had been granted; an indulgence which had enabled some of them to run on for nearly a year after the time when prohibition came nominally into force. Moreover, it was urged that legal difficulties had arisen in the enforcement of the law, difficulties which, when

\* For a month before the election much excitement prevailed, and a good deal of heated language was used. That the bitter feeling was kept alive for some time after seems to be shown by the following extract from the mayor's inaugural address in 1889 : " By wisely and justly dealing with this irritating question (*i.e.*, the liquor traffic), I am satisfied that we can aid in restoring harmony and peace to our people, and banishing this question from their discussions. We never knew unfriendly division before its introduction, and fortunate will we be if we are instrumental in satisfactorily removing it."

the machinery of administration had got fairly into working order, would disappear. Nevertheless, they maintained that much good had resulted ; crime had diminished, prosperity had increased ; the poor especially had benefited, their material condition giving evidence of marked improvement in better homes and a brisker trade among the small retail shops.

As regards the existence, extent, and causes of an increase in the general prosperity of the place during the prohibitory period, many conflicting statements were made and opinions expressed ; and it might be difficult to reach any decided general conclusion upon this point, one way or the other. Upon the subject of crime some figures will appear later.

With respect to the alleged benefit derived by the poor from the closing of the saloons, it was said that many more working-men had purchased homes for themselves and their families than had done so previously during an equal period, while several coal dealers gave evidence of increased sales of fuel to people of this class. The municipal relief committee observed in their report for 1886 that the calls for relief by the indigent poor had not been so numerous during that year as the preceding one. In confirmation of these statements a gentleman long resident in Atlanta told me that in a particular quarter of the town, where he was personally interested in charitable work, the benefit to the families of workmen was marked. The portion of their wages which they used to spend on drink was saved ; and when the saloons were re-opened there were deep complaints among the women of the change in their home circumstances. Others gave me a similar account. The drain upon the weekly wages to pay the debts incurred for drink stopped ; people of this class had not the forethought or the means to get liquor in by the jug from a distance ; and the result was an increased call for superior dwelling accommodation ; the small grocers and other shop-keepers did a larger cash business, and less on credit, a fact which one of my informants assured me he had verified by

conversation with tradesmen who dealt with the poorer classes, and by inspection of their books. One gentleman, who on other grounds had a decidedly unfavourable opinion of the results of prohibition in Atlanta, admitted to me that in this respect a certain degree of good had ensued from it. Altogether the evidence seems to give substantial ground for believing that a section, at all events, of the working-classes was benefited by the removal of the temptation offered by the open saloons.

Statements were, however, made during the election campaign in November, 1887, which, if to any considerable extent true, would show that prohibition as it affected the working-classes was not in all respects a success. It was confidently and circumstantially alleged that many operatives (especially among the Germans) left the city, and betook themselves to other places where they were not subject to such restraints. Instances also were mentioned of workmen who habitually on pay-day sent to the nearest place for whisky by the bottle or jug, and in this way lost more time from drink than they ever lost before.

The familiar argument was urged that while the rich man could have his jug it was unfair that the poor man, who was as well able to take care of himself, should be deprived of his glass of beer or whisky.

Whatever view may be taken on the whole question of prohibition in Atlanta, it is not disputed that during the prohibitory period an extensive "jug" trade was carried on; and, whatever its effects may have been as regards the working-man, I was assured by some who had had full opportunity to observe its operation, that among men of a higher social grade it was a very serious evil. Men in business, clerks, and others (as I was informed) drank to an unprecedented extent, having bottles of whisky open in their houses and offices, with which they regaled themselves and their friends, and much drunkenness resulted among men who before had not been at all in the habit of drinking. Some, it is said, fell into the habit through

a mere spirit of opposition to a law which sought to coerce them. "Jugs" of whisky came into Atlanta by the carload, and, as I have been told, the sidewalk in front of the Express Company's office would be covered with such jugs waiting for delivery among persons in the town who had ordered consignments from Griffin and other places.

While not disputing the existence and the evils of the "jug" trade, the advocates of prohibition appear to be less impressed with the extent of it, and claim that it was greatly outweighed by the benefits already indicated. They attach great importance to the closing of the open saloons; indeed many regard this as the one great advantage to be gained by prohibition; and they maintain that in this instance it worked great good, through removing temptation from many who had not yet acquired a taste for strong drink. Those who wanted liquor, it is admitted, could obtain it, but it was not attempted to prevent them; and some even among the prohibitionists admit that people who really want liquor will find means to get it, under any law. But it is on this side maintained that the entire consumption was very much diminished.

However this may be, some strong and circumstantial statements were publicly made shortly before the election of 1887, about both the quantity of liquor brought into Atlanta in "jugs," and the evil effects produced by it, statements which I believe were not publicly questioned or disproved. The following extract is taken from the published report of a speech delivered by the Hon. Clark Howell:—

"The prohibition law has brought nothing but dissension. Almost every home has become a bar-room, and every young man has his bottle, so as to return the hospitality of his neighbour. I found five young men the other night, who until two years ago had never tasted liquor, in a deplorable plight, each with his bottle in his hip pocket. I had occasion lately to enter the room of a friend, and found there six of the best-known young men of Atlanta drunk and asleep, while upon the table stood six empty bottles."

By another speaker it was asserted that on October 29th, 1887, there came into Atlanta on one train from Griffin twenty-one two-gallon jugs, fifty-nine one-gallon jugs, seventy-five half-gallon jugs, five five-gallon jugs, and three five-gallon demijohns, besides quarts and smaller quantities, the total amount on a single train from a single place being 357 gallons.

From the same place there were said to have been sent to Atlanta during the whole month of October 3,974 packages containing from a gallon to a barrel. A few months previously one house had despatched 1,400 packages in four days.

In the same month of October, Atlanta, according to the same authority, received 550 packages of liquor from Madison, 150 from Augusta, more than 200 from Lawrenceville, more than 250 from Gainesville, besides various quantities from Chattanooga, Birmingham, Louisville, and other places; also twelve car-loads of beer; altogether, from nine places, 32,500 gallons of whisky, besides beer, the whole valued at \$142,000. It is obviously impossible that this can have been a normal month's supply for consumption in a city of 60,000 inhabitants.

As regards the illegal sale of liquor in Atlanta itself, it was stated, on the authority of the Collector of Internal Revenue, that fifty-seven receipts had been issued in 1887 for payment of the United States liquor dealers' tax in Fulton county. As the local option law did not admit of the sale of liquor for any purpose whatever in prohibitory places, this tax could only have been paid for the purpose of selling in violation of the State law. The collector also testified to a great increase of distilling in the State.

The result of the voting in November, 1887, was a majority of 1,128 for a return to the licensing system, the total number of votes cast being something over 9,000. Only one precinct out of sixteen gave a "dry" majority, and that one was outside of the city. The majority included persons who two

years before had voted the other way, either through dissatisfaction with the municipal corruption and mal-administration with which the liquor business was bound up, or from a positive belief in the virtues of prohibition which experience had not confirmed.

Since that time, Atlanta has had a licensing system regulated by municipal ordinances passed under the powers conferred on the city by its Act of Incorporation.\* The regulations are of a stringent character, and contain certain features which I have not met with in the legislation of any other State or city in the country. They constitute, indeed, a licensing code which in form and in substance is worthy of attention. They will be found set out *in extenso* on pp. 416-425. Meanwhile some of their leading provisions are here summarised :

Licences are of three kinds : (1) wholesale, for the sale in quantities of a gallon and upwards ; (2) retail ; and (3) retail, for malt liquor only. Licences of the first two classes may be issued only in specified business portions of certain streets enumerated in the ordinance (that is to say, within what are known as the fire limits). Beer licences may not be issued within those limits, but may be issued outside of them "on business portions of business streets within practicable and efficient police supervision, and in localities where there is no reasonable objection thereto."

\* The charter provides :—"They" (the mayor and General Council) "shall have full power and authority to regulate the retail of ardent spirits within the corporate limits of said city, and at their discretion to issue licence to retail, or to withhold the same, and to fix the price to be paid for licence at any sum they may think proper, not exceeding \$2,000."

"The mayor and General Council of said city shall have the power and authority to regulate the sale of liquors at wholesale in said city" (Law of 1889).

"The said mayor and General Council shall have full power and authority to prohibit the selling of lager beer, or other fermented drinks, without the obtaining of a licence for that purpose, provided the owner or keeper of each house or saloon kept for that purpose shall not be required to pay exceeding the sum of five hundred" (originally one hundred) "dollars for a licence for one year."

The mayor and General Council may in every case in their discretion grant or refuse an application for a licence. Before the issue of a wholesale licence, the applicant is required to pay the licence fee, and to make an oath and give a \$2,000 bond to observe the law.

An applicant for a retail licence has to produce a certificate from two or more of his "sober, respectable, near neighbours, not interested in the application," one of whom must be an adjoining neighbour, recommending the applicant as fit to be trusted with a licence. He must also produce the written consent of the owner or agent of the premises, and must give a bond in \$1,000 with two sureties for the keeping of a decent and orderly house, and for compliance with the liquor law, and make an affidavit that he has not been previously convicted of any breach of it. In case of any breach of the conditions of the bond, the amount thereof is declared to be liquidated damages, and recoverable by action in favour of the city. No person may be surety on more than one bond at the same time. Before a licence is granted, the police are personally to examine the locality and give notice to adjacent tenants or owners, and also to the owner of the place proposed to be licensed, and are to report to the mayor and Council. Retail licences are to be issued only to persons "of good character, sobriety, and discretion."

The licence fees are :--

For a wholesale licence	...	...	...	\$25.00
For a retail licence	...	...	...	\$1000.00
For a retail (beer) licence	...	...	...	\$250.00

(Raised from \$100 in 1891).

Licensed premises (whether wholesale or retail) are required to be closed from ten at night till five in the morning ; a place for which a retail licence is granted must have no screen, blinds, painted glass, or other obstructions to the view through the doors and windows, and (subject to a saving clause for bar-rooms in hotels) must front, or have its main entrance on, and be substantially on a level with, a public street, subject to a power to license the sale "in basements sufficiently open to view."

Conviction of an offence against the licensing law not only subjects the offender to fine or imprisonment, or both, but operates

*ipso facto* as a forfeiture of his licence.\* Any one convicted of selling spirits under cover of a beer licence is to be imprisoned for thirty days, as well as being fined.

The mayor and Council are to forfeit the licence of any retailer "whose place becomes a nuisance or of ill-repute by disorder thereat or otherwise."

Minors are not allowed to enter bar-rooms, and the words "No minors allowed in here" have to be conspicuously posted on the premises.

Anyone appearing on the streets in an intoxicated condition is to be punished by a fine not exceeding \$100, or imprisonment not exceeding 30 days, or both; but may avoid the punishment by giving such evidence as will lead to the conviction of the person who furnished him with the liquor by which he became intoxicated.

By the census of 1890, Atlanta is credited with a population of 65,500; but it claims at the present day to have gone considerably beyond that figure. It certainly increased rapidly during the decade 1880—90, and has now all the appearance of continued growth and prosperity. It is, perhaps, the most active and enterprising town in the southern States. Before the experiment of prohibition was tried in 1885, the retail liquor shops numbered about 130 to a population of about 50,000. The number now is 70, or about one to every thousand of the population.

Among the various residents, men in official positions and others, from whom I sought information, I found a preponderance of opinion favourable to the existing law, which appears to be well enforced, and to have gained the public favour to an extent sufficient at least to banish any widespread or active movement in favour of a return to prohibition, or a resort to any other radical change of system. One who had voted on both occasions for prohibition told me that the existing law was, in his opinion, the best and most efficient

\* The validity of this provision has been upheld in the courts (*Sprayberry v. the city of Atlanta*, 1891).



that could be devised for a city of the size of Atlanta, its operation comparing favourably with that of prohibition, when the "jug" trade and the sale of pseudo-"temperance" drinks were a serious evil. Here, as in Minneapolis, merit is claimed for the system of confining the saloons within a strictly limited area in the centre of the town.\* The bar-rooms, too, are said to be punctually closed at 10 p.m., and on Sundays to remain closed throughout the day.

I was assured that these and other regulations of the law—that, for instance, which forbids the sale of liquor to persons under age—were observed with much strictness; and the claim that the law is better enforced in no other city in the United States of equal size seems to be not without justification.† Prohibitionists, indeed, say that there is drunkenness, and that illegal liquor-selling goes on; and they object, of course, to the existence of the open saloon, and point to the prevalence of crime. A prominent lawyer and ex-Judge, one of the leading prohibitionists in Atlanta, told me that, in his opinion, great good could be done by stopping the retail sale of liquor, and putting an end to on-licences, while leaving the wholesale trade undisturbed. This plan, he thought, would put a stop to most of the mischief caused by drink, while not attempting the impossible. A vast proportion of people, he said, drink because

\* In the mayor's annual addresses, reference is repeatedly made to the importance of this limitation, in the interest of a proper police supervision.

† In proof of the exact observance of the hour for closing, a resident told me that, some friends from Boston whom he was entertaining having expressed their disbelief in the accuracy of his assertion that drink could not be obtained after 10 p.m., he offered to pay their expenses to New Orleans and back if they could get served after that hour. They started out with confidence, but returned crestfallen. The Police-Committee in their annual report for 1891 say: "We believe that Atlanta has the liquor-traffic, where the same exists at all, under the best control of any city in the Union; and though this is strong language, we use the same after mature consideration. It is impossible to get liquor after ten o'clock at night, before five o'clock in the morning, or on Sunday at all; and under no circumstances are minors allowed in bar-rooms."

it is so easy to get a drink, and because their friends invite them to it. Numbers of such people have not the forethought, and many have not the money, to lay in a stock of liquor. Many people, too, have no place where they could drink liquor, even if they had it, except the saloon. Some few years ago a candidate was run for the office of State senator on the issue of bringing in a Bill prohibiting sales by retail or for consumption on the premises. He was beaten only by a small majority, his opponent being a strong candidate, a wealthy man, holding views such as would gain the support of many moderate people. More recently, it was sought at the municipal elections for Atlanta to carry six councilmen and an alderman pledged to endeavour to stop the issue of retail licences in that city. This attempt, however, was easily defeated. On the whole, I found little evidence that any radical change in the liquor law was to be expected in Atlanta for some time to come; or, indeed, that the existing condition of things was otherwise than satisfactory, by comparison at least with that in most other cities. The town is orderly; and I found no evidence of the existence of much drunkenness.

The following table contains some statistical information extracted from the yearly municipal reports. No classified statement is published of the crimes for which arrests are made; it is, therefore, only possible to give the total number of arrests for each year. The prohibitory years (1886 and 1887) show a diminished return of arrests. In the last three years the increase is marked; but against this must be set the increase in population, the extension of the city boundary, the improved efficiency of the police, and (as I am informed) the increased number of offences created by new ordinances. Arrests for mere drunkenness have also, I am told, been made of late more frequently than in former years.

ATLANTA (Population 65,533).

	1883.	1885.	1886.	1887.	1888.†	1889.‡	1890.	1891.
Arrests ... ..	5,578	6,305 (1,151 State, 5,154 City).	5,578 (901 State, 4,677 City).	6,138 (978 State, 5,160 City).	7,817 (1,165 State, 6,652 City).	10,379 (1,565 State, 8,814 City).	12,837 (1,448 State, 11,389 City).	13,351 (2,051 State, 11,600 City).
Fines in Recorder's Court	\$ 20,800	\$ 21,900	\$ 23,800	\$ 27,700	\$ 28,200	\$ 37,000	\$ 46,400	\$ 41,100
Cost of police ... ..	39,600	51,384	49,250	57,200	58,200	77,000	102,100	120,000
Number of police	51	58	60	76	74	98	118	133
City poor relief ... ..	\$ 3,500*	\$ 10,700	\$ 8,700†	\$ 12,400‡	\$ 11,800	\$ 9,000	\$ 8,700	\$ 19,050¶
Retail liquor-licence	...	37,700	12,500	775	52,700	60,700	67,950	70,400**

\* Leaving a small balance in hand. The committee desire an increased appropriation to meet legitimate wants. A city hospital is wanted.

† Only \$525 in private subscriptions for the poor were sent in to the police in 1886, as against \$4,000 sent three years previously; but the smaller amount proved sufficient. The Relief Committee, in their report, state that the calls for relief by the indigent poor of the city have not been so numerous this year as last.

‡ In this year, a warden of the poor was first appointed; this innovation acted as a check on pauperism.

§ The Tax Committee, in their report, declared that 1888 was the most prosperous year in the history of Atlanta's city government.

¶ In 1889, the city limits were greatly enlarged—nearly doubled in area.

¶ Including a grant of \$9,000 to the new city hospital.

\*\* The number of liquor-licences issued in 1891 (including, apparently, wholesale as well as retail) was 74; also one brewer's licence. A city licence-fee is also collected in Atlanta for every business undertaking. The total number of such licences for 1891 was 7,156, and the amount collected for general business licences (exclusive of liquor and of dray and hack licences) was \$57,300. The Tax Committee, in their report, state that there is much evasion in the payment of the licence; this, however, does not appear to refer to liquor licences.

A statute passed in August, 1891, inaugurated a new departure in the liquor legislation of this State. Under this measure, in the small city of Athens (population 9,000), in Clark County, containing the State University, three commissioners are established, of whom one retires annually—his place being filled by nomination of the two remaining commissioners, subject to the approval of the mayor and Council. The duty of the commissioners is to establish and maintain a dispensary for the sale of liquors, and place it in charge of a manager under their supervision. The manager is appointed and may be removed by them, and he has to give a bond of not less than \$2,000 for the faithful performance of his duties. He has to be paid a fixed salary ; his remuneration must not be dependent on the amount of his sales. No person holding any corporate office in the city, or any county office, is eligible as commissioner or manager. The commissioners are to receive for their service such sums as the mayor and Council determine—not less than \$100 each per annum.

All bills for the maintenance of the dispensary and purchase of stock are to be paid by the City Treasurer. The manager is to sell only for cash, and is to turn over all his receipts daily to the treasurer.

The commissioners have to make regulations for the operation of the dispensary. "The quantity to be sold to any purchaser shall be determined by them, but in no event shall wine or liquor be furnished in less quantities than one half-pint, and none shall be drank in the building or on the premises where the dispensary is established. The dispensary shall not be open before sunrise, and shall be closed each day before sunset, and it shall be closed on Sundays, public holidays, election days, and such other days as the commissioners shall direct."

Liquor is not to be supplied to any student of the University, whether minor or adult, either directly or indirectly, except on the written order of the Chancellor of the University.

The commissioners are to fix the prices to be charged for liquors, which, however, are not to be sold for a profit exceeding fifty per cent. above the actual cost, "it being the purpose of this

Act that the dispensary shall be managed in such a way as to pay its expenses, and any revenue derived shall be simply an incident to, and not the object of, the dispensary."

Liquor is to be sold only in sealed packages, and the manager is to report monthly to the commissioners the amount of his sales, and the stock remaining on hand at the end of the month.

All liquor is to be examined and analysed by a chemist and passed by him as pure before sale.

No liquor is to be sold in the dispensary to persons purchasing for the purpose of selling again, either lawfully or unlawfully, and the commissioners are required to make such rules, and to require the manager to make such investigation, as will prevent persons from so purchasing ; and, if the commissioners are satisfied that any person is purchasing liquor repeatedly for the purpose of re-selling, they may direct the manager not to sell to him except on a medical certificate.

The manager is not to allow any person to loiter in or about the dispensary, and any person refusing to leave is liable to punishment.

The mayor and Council are required to pass such ordinances as may be necessary to carry out the purposes of the Act, and are to provide suitable penalties for the violation of its provisions and of the commissioners' regulations ; and are to appropriate any sums necessary from time to time for the dispensary.

The commissioners have to report annually to the mayor and Council, and any net profits of the dispensary for the year are to be equitably divided between the city of Athens and the county of Clark upon a plan to be agreed upon by the Mayor of Athens and the Ordinary of Clark county. If they fail to agree, they shall each choose an arbitrator, and these two, with a third selected by themselves, are to settle a plan of division for the year. The sum awarded to the city and county respectively may be appropriated by the respective authorities for any purpose for which they may lawfully appropriate money.

This law is, I believe, unique in American legislation. It has not as yet been adopted by any other place in this State, but it may have had some influence in shaping the new law of South Carolina.\*

\* In a village in New York State, Union Springs, the saloons have been placed under the control of a committee including the local clergy.

The general licensing law of Georgia, which applies to those portions of the State which are not subject to prohibition or to any special local law, provides that application for a licence to sell spirituous liquors in any quantity less than a gallon (and, under a law of 1890, in any greater quantity) must be made annually to the Ordinary of the county, who has power to grant or refuse the application. On grant of a licence the applicant must take an oath not to sell to a minor without the consent of his parent or guardian, and must give a bond in \$500 conditioned to abide by his oath and to keep an orderly house. The county retail licence fee is \$25.

The above provisions as to licensing do not apply to any corporation, town, or city which by charter has power to grant licences at an equal or higher fee.

Another general law provides for the inspection of liquors. (Code of 1882, secs. 1580—7.) City and incorporated town authorities, and in counties the Ordinary, may appoint inspectors to examine liquors every month, and require the destruction of such as are injuriously adulterated. Dealers are required under penalty to have their liquors inspected before sale.

Penalties are enacted for selling without a licence, keeping open a tippling house on Sunday, selling to minors, or on election days, etc.; and by an Act of 1891 the court sentencing the offender is required to cancel his licence, whereupon he becomes disqualified for a year from obtaining another.

The following public laws are also in force :—

1887, Chapter 168.—In counties having prohibition with a saving clause for any kind of wines (domestic or other), dealers of such wines, unless also manufacturers, are required to pay a tax of \$10,000 annually; and such wines are not to be sold in less quantities than a quart, and are not to be drunk on the premises.

1887, Chapter 154.—The sale of opium (except on medical prescription) to persons habitually addicted to its use, after written notice of such habit from a near relative, is prohibited.

1889, Chapter 175.—It is made a misdemeanor for any seller of spirituous liquors to sell or furnish liquors or other intoxicating drinks to any person who is intoxicated.

1890, Chapter 153.—The possession or consumption of liquor in a place of divine worship is prohibited, subject to a saving clause for medical men, and for cases of accident, and wine for communion.

1891, Chapters 281, 702. The sale of liquor within three miles of any church or school-house, except in incorporated towns and cities, is forbidden under penalty, subject to a saving clause for domestic wines, and for physicians, and for manufacturers selling to legally authorised dealers in original packages of not less than 40 gallons.

1891, Chapter 688.—Domestic wine is defined to mean wine made from berries, grapes, or other fruits grown in the State.

## CHAPTER XVIII.

MARYLAND. VIRGINIA. KENTUCKY. SOUTH CAROLINA.

(Local Option. State Dispensaries.)

*Maryland.*

MARYLAND has no general law with regard to the liquor traffic. The practice in this State is to legislate separately, according to the wishes and requirements of each separate locality. It is, therefore, impossible to give here any full or general account of the subject as it affects the whole body of the people.

As an example of the piecemeal character of the legislation of Maryland, it may be mentioned that in 1890 about thirty statutes were enacted by the State Legislature, dealing in one way or another with the liquor trade in as many separate cities, towns, counties, districts, and villages, the Acts in some cases prohibiting the sale either within the area dealt with, or within a certain distance of that area ; in other cases giving a right of local option ; in others regulating the trade in various ways. Similar laws were also passed in 1888. In 1890 local option votes were taken in three counties, and prohibition was carried in one of them. Of the two others which rejected it, one had been under prohibition during three years previously.

The following is a summary of the law affecting the City of Baltimore, passed in 1890, prior to which year the duties were low, and there was little restriction on the issue of licences. The County of Baltimore, in which the city is locally situated, has a licence law of its own, separate and differing from the law in force in the city.

The licensing authority for the City of Baltimore is a Board of three Licence Commissioners appointed by the Governor.

Licences for the sale of intoxicating liquor by retail may be granted for one year to citizens of the United States of temperate



habits and good moral character. The vote of the members of the board is required to be taken, after a public hearing, on the question of granting or refusing every application for a licence ; and the board has to keep a full record of all applications, and all recommendations for and remonstrances against the granting of licences, and of their action thereon. Certain particulars have to be stated in the application and verified by affidavit ; and the application must be supported by ten voters residing or doing business in the ward. A licence must always be refused when in the opinion of the board it is not necessary for the accommodation of the public, or the petitioner is not a fit person.

If a licensee violates any State law relating to the sale of intoxicating liquor, the board is required to revoke his licence.

The licence fee is \$250, whether for an hotel or restaurant, a grocer (for consumption off the premises), or a distiller, brewer, or wholesale dealer ; one-fourth of it goes to the State, the remainder to the city.

The usual prohibition is enacted against selling to minors and drunkards, and against selling on election days and Sundays, except in hotels to guests. Liquor may not be sold between midnight and 5 a.m. (except at entertainments by special permission of the Board of Police.)

Druggists do not require a licence, but are not allowed to sell liquors except on a written medical prescription, and have to keep a record of all such sales.

Persons selling liquor without a licence are liable to a fine from \$500 to \$5,000, or imprisonment from three to twelve months, or both fine and imprisonment. Any licensed person convicted of violating the Act or the conditions of his licence is subject to a fine from \$100 to \$500 ; for a second offence his licence is revoked, and the fine is \$500 to \$1,000, with or without imprisonment three to twelve months. The licence of any person who permits minors to frequent or loiter about his place, or disreputable or disorderly persons to make it a customary place of visitation or resort, may upon proof be revoked by the criminal court, or by the Licensing Board ; and he is disqualified for two years from obtaining another licence.

Upon complaint by any voter of the city (who gives security for costs) that a licence has been corruptly or knowingly issued to a person who has not complied with the provisions of the Act, the State's Attorney is required to proceed against the board.

The term "intoxicating liquor" includes all fermented and distilled liquors and mixtures containing more than two per cent. of alcohol (or less if intoxicating).

The effect of the law of 1890, raising the licence fees and conferring on the commissioners a discretionary power to refuse licences, was immediately to produce a reduction in the number of saloons and places where liquor was sold, from about 3,200 to somewhat less than 2,000. In 1892 there was a very slight increase.

The number of arrests for drunkenness and disorderly conduct for the years 1890 and 1891 (35,638) shows a diminution of more than eight per cent. as compared with the two preceding years; a decrease which is more marked when the fact is taken into account that the city limits were extended in June, 1888, and that the old Licence Law was in force during the first four months of 1890. A comparison of the same two biennial periods shows a much larger proportionate falling off in the offence of selling liquor on Sunday.\*

As between 1890 and 1891, no material difference appears in the number of arrests for most crimes, but there is a considerable diminution in the latter year in arrests for selling without licence and to minors. The illegal selling of liquor on Sundays fell off very much under the new law.

One of the city coroners, in making a very small return of inquests held by him, attributed to the same cause the prevention to a great extent of homicides and fatal accidents.

The report of the warden of the Baltimore City Jail for 1891 shows that 7,677 prisoners were committed during that year for drunkenness and breach of peace; and the warden takes occasion to criticise the practice of committing men for

\* The figures are derived from the Report of the Board of Police Commissioners for the City of Baltimore. As the police of the city are under State control, and the State Legislature sits only once in two years, the report is made to that body biennially.

thirty days for being drunk, whether they are habitual offenders or not. Such a sentence, he urges, is unreasonably severe in many cases, while for the habitual drunkard it is altogether inadequate.

The report from the hospital department of the jail shows 1,164 cases of alcoholism and forty-six of delirium tremens treated during the year.

According to the report from the Baltimore City Almshouse, 1,800 persons, out of 2,400 admitted in 1891, were of intemperate habits. Nearly one-half of the whole number admitted were foreign born. There were but few cases of alcoholic insanity in the city insane hospital.

### *Virginia.*

This State has a general local option measure, passed in 1886, and a somewhat elaborate licensing law. The licence fees are low. Special legislation has been less common than in some others of the southern States.

*Local Option Law.*—[Chapter 248 of the Acts of 1885—6; §§ 581—587 of the Code of 1887.] An election is to be held for (1) a county, or (2) a magisterial district in a county, or (3) a city, or (4) any town constituting a separate election district, on the application of a number of voters (1) in each magisterial district in the county, or (2) in the particular magisterial district affected, or (3) in the city or town, equal to one-fourth of the persons voting at the last preceding November election.

Section 584 of the Code is as follows :—"Notwithstanding the election is held for the whole county, the vote shall be by districts, and if it appear from the abstracts and returns that a majority of the votes cast in any magisterial district have been cast against licensing the sale of intoxicating liquors, no licence shall be granted for the sale of wine, spirituous, or malt liquors, or any mixture thereof, in such district. If, on the other hand, it appear from the abstracts and returns that a majority of the votes cast in any magisterial district have been cast in favour of liquor licence, then a licence may be granted for the sale of wine, spirituous, or malt liquors, or any mixture thereof, in such district. Where the

election is held in a magisterial district only, or in a city, if it appear from the abstracts and returns that a majority of votes in such election have been cast against licence, no licence shall be granted for the sale of wine, spirituous, or malt liquors, or any mixture thereof, in such district or city." Similarly in the case of a town where a vote is taken (Acts of 1889—90, c. 203).

A local option election is not to be held within 30 days of any county, corporation, State, or national election.

A no-licence vote extends to prohibit within the area affected the sale by distillers, and by manufacturers of wine and malt liquors. Druggists may sell on a medical prescription; but must take out a retail licence, except for liquors used in preparing medicines.

*Licence Law.*—A liquor licence is granted by a Commissioner of Revenue of the county or corporation in which the business is to be carried on, but in the case of a retail licence or a licence for a bar-room, malt-liquor saloon, or ordinary, only on a certificate from the county or corporation, or Hustings Court of the county or city. In the case of a city having a Board of Commissioners of Excise, the application must first be endorsed "approved" by the commissioners (hereafter mentioned). The county, corporation, or Hustings Court is then to hear the evidence for or against the application, and hear and determine the question of granting it.

Any person who may think he would be aggrieved by the granting of the licence may contest it. If the court, after hearing the evidence, is fully satisfied that the applicant is a fit person to conduct the business, and will keep an orderly house, and that the place at which it is to be conducted is a suitable, convenient, and appropriate place for conducting such a business, the court, on the execution by the applicant of a bond in not less than \$250 nor more than \$500 for his faithful compliance with all the requirements of the Act, may grant the licence.

There is an appeal to the Circuit Court against either the grant or refusal of a licence.

Under a law of 1890 (Statutes of 1889—90, c. 244) three kinds of licences are issued:—(1) wholesale (5 gallons or more, and in the case of beer 12 bottles or more); (2) retail (not exceeding 5 gallons, for off-consumption); (3) bar-room, ordinary, or malt-liquor saloon (on-consumption *only*).

A person desiring to do a wholesale and retail, or a retail and bar-room, business must take out a separate licence for each, on

penalty of a fine of \$100 to \$500, and, in the discretion of the court, imprisonment not exceeding 12 months ; the tax, however, on the second licence is reduced by one-half.

A druggist who sells liquors (except in prepared medicine) must take out a retail licence.

“ It shall be the duty of the Judge of the Circuit, County, or Corporation Courts to give this Act, and particularly the provisions thereof in reference to the sale of ardent spirits, wine, malt liquors, or any mixture thereof, in charge to the grand jury at every regular grand jury term of their respective courts, and to send before the grand jury the constables and the Commissioners of Revenue, with the view of ascertaining whether any person in their districts is engaged in the sale of liquors without a licence.”

Special provision is made for sample liquor merchants : the tax on their licence is fixed at \$350.

The licence taxes are :—

Wholesale ... ..	\$350
„ (malt liquor only) ... ..	150
Retail (in the country or in towns and villages of not more than 1,000 inhabitants) ... ..	75
„ ( „ „ ) malt liquor only ... ..	30
„ (elsewhere) ... ..	125
Bar-room (in the country or in towns and villages of less than 1,000 inhabitants) ... ..	75
And an additional sum equal to 15 per cent. of the rent or rental value of the bar-room.	
„ (elsewhere) .. ... ..	125
And 15 per cent.	
Malt liquor saloon (in the country or in towns of 1,000 inhabitants, or less) ... ..	40
„ „ „ (elsewhere) ... ..	60
Ordinary (in the country or in towns with a population of 2,000, or less) .. ... ..	75
„ (elsewhere) ... ..	125

With the addition in either case of a sum equal to 8 per cent. of the rent or rental value of the house and furniture used for the purposes of the ordinary up to \$1,000 of such rent or value ; and on the rent or value in excess of \$1,000 and under \$2,000, 5 per cent. ; and from \$2,000 upwards, 3 per cent.

A licence for an ordinary includes the privilege of selling liquor for consumption on, but not off, the premises.

Any person who for compensation furnishes lodging and diet to travellers, sojourners or boarders, and sells liquor for consumption on the premises, is deemed to keep an ordinary, and is required constantly to provide the same with lodging and diet for travellers, and (unless dispensed with by the court) stabling or pasturage and provender for horses.

In 1890 a State Board of Commissioners of Excise was established, with the duty of appointing three commissioners of excise for every city in the State, to act as a Licensing Board, with the duty of inquiring into the character of every applicant for a licence, the "suitability, convenience, and appropriateness of the place at which the proposed business is to be conducted, and the general propriety of approving the application." Petitions of resident citizens for and against the application are to be considered by the board, which has power to summon witnesses. After hearing all the testimony adduced, and "making the investigation necessary to satisfy themselves on the matters referred to their discretion, the board may approve or disapprove the application as it seems right and proper to do."

The object of this measure is thus explained in its preamble, which recites that "there exists in the cities of the Commonwealth a growing dissatisfaction with the system under which licences for the sale of ardent spirits are granted; and whereas the Legislature recognises the justice of the urgent and imperative demand, growing out of this dissatisfaction, for a change in the present system, and is disposed to surround the granting of these licences in large municipal corporations with all the safeguards suggested by an enlightened and progressive public policy." From private information I am given to understand that this law was passed to enable the State to collect the liquor licences in money instead of coupons, and that it was not enacted in the interest of temperance.

On the motion of the county or city attorney or of any other person, the court which granted the certificate may revoke the licence.

No bar-room, saloon, or other place for the sale of intoxicating liquors may be opened on Sunday. Penalty, fine \$10 to \$500, and, in the discretion of the court, forfeiture of licence; but this is subject to the police regulations of any city, and any ordinance prescribing an equal penalty.

For furnishing liquor to a minor, "having good reason to believe him to be such," without written authority from his parent

or guardian, or to any student of the Hampton Normal and Agricultural Institute, the penalty is fine \$10 to \$300, and recognisances for good behaviour for twelve months.

For selling liquor on election day, fine not exceeding \$1,000, and imprisonment not exceeding one year.

"If any person, arrived at the age of discretion, profanely curse or swear, or get drunk, he shall be fined by a justice one dollar for each offence."—(Code, section 3,798).

*Special Legislation*, 1887.—An Act having been passed in 1884, providing for local option in Amhurst county, two out of the four magisterial districts carried prohibition, but the other two rejected it. These latter districts appear to have been debarred from taking a vote under the General Local Option Act of 1886, and an Act was therefore passed conferring on them this right. \*

1892.—An Act was passed authorising the Board of Supervisors of Elizabeth City county to levy and apply to county purposes a liquor tax equal to the tax levied by the State. †

1892.—An Act was passed making special provision for suppressing illegal sales of liquor in Lee, Pulaski, Scott, Wise, Dickenson, Buchanan, Bland, and Russell counties. Places where liquor is illegally sold are declared public nuisances, etc.

The Secretary to the State Temperance Association tells me that the special law for these eight counties "was aimed at blind tigers." These counties will not, under the local option law, permit the sale of liquors in any district; and, to evade it, liquor was put in some obscure house, and a man could go there, deposit the money in a till, get his liquor, and go away without seeing anyone at all—not even the man who put it there for sale.

Upon the general subject of local option, the same informant

\* I understand that at the present time only one district in Amhurst county is "dry."

† A correspondent writes to me:—"The Elizabeth City County Act was passed to enable that county to collect more liquor revenue by raising the licence, and getting more money for county purposes. In raising the licence, however, the number of saloons was reduced; the little doggeries could not afford it."

writes to me that the law of 1886 was at once taken up with much energy, and made a lodgment in every one of the 100 counties in the State, in twenty of which all licences were withdrawn, while in the remainder they were confined to the cities and towns. "Local option" (he writes) "in my opinion is the most effective remedy against licence. By submitting the question every two years under our law, a discussion of the same is indulged in by all; it educates the people; they hear it presented in ways they had never heard of, nor thought of. It creates a public sentiment, and, unless a law is sustained by public sentiment, it cannot be enforced. The law and public sentiment are inter-dependent—united they stand, divided they fall."

From others in this State who, equally with the writer of the letter of which the foregoing is an extract, desire the complete suppression of the liquor trade, I heard a less favourable account of the position and prospects of local option. I am assured that, except in purely rural areas, prohibition has now a footing in only a small portion of the State. One correspondent (a thorough-going prohibitionist) writes from Norfolk: "I think, upon the whole, local option does much good as an educator towards prohibition; but it never *settles* anything. There is also a tendency on the part of many temperance people to rest on their oars as soon as local option is adopted in their own town."

The general disposition, which at first appeared, to adopt the Act of 1886 does not seem, on the whole, to have been very well maintained. Some counties, which adopted the Act as a whole, soon gave up the districts in which the court houses were situated, because it was evaded and brought discredit upon the law. A "dry" majority at one election has frequently been reversed at the next, and many instances of repeated changes to and fro between wet and dry are mentioned. So far as the cities are concerned, local option has had little operation. Of eighteen cities in the State, one only is



prohibitory. Richmond (population, 81,000) is said to be a long way removed from any disposition to vote "dry." A local option vote was taken there a few years ago, and the majority against prohibition was, I believe, something like five to one. There is a large wholesale business in Richmond, and the liquor interest has much strength.

Lynchburg, however (pop., 20,000), nearly carried a prohibition vote a few years ago.\* Roanoke (16,000) also came near to voting dry.

The licensing authority in Richmond appears to be, practically, the Judge of the Hustings Court. The points considered in the case of an application are the character of the applicant and the location of the premises, which must not be in a residential neighbourhood where it would be objectionable, and must not be close to a church or school. Applications are referred to the captain of police in the district in which the premises are situate, in order to ascertain that there is no objection in that quarter. There is no restriction in respect of number, and the licence fee is low—\$125, and less for beer. There are about 500 bar-rooms in Richmond, and 300 retail licences; but, as a bar-keeper often takes out a retail licence to enable him to sell for off-consumption, the 300 licences do not imply that number of dealers in addition to the 500 bar-keepers.

No trouble, I am told, is experienced in regard to the beer licences, through people selling spirits under cover of them. As a matter of fact, few beer licences are issued. Sunday closing is not strictly enforced. The side-door business goes on, but is conducted quietly; disturbances are rare, and anything disorderly in a saloon on Sunday would lead to a prosecution. No police statistics as to arrests are published.

The Judge of the Hustings Court has jurisdiction (which

\* Prohibitionists, indeed, claim that they had a majority, but were deprived of their victory by a miscount.

he told me that he practically exercised) to take away licences for cause.

*Kentucky.*

In addition to general licensing and local option laws, Kentucky has passed a considerable body of special legislation affecting particular localities, and amongst other matters dealing with the liquor question in various ways. The new Constitution, however, adopted in 1891, and superseding the Constitution of 1849, has put a stop for the future to the system of special legislation, from which serious abuses had arisen.\* It has also involved the passing of much new legislation of a general character, the old laws, however, being allowed to continue in force until re-enacted with reference to the new order of things.

Of special liquor Acts no less than sixty were passed in 1890 alone, some of them prohibiting the sale of liquor in a particular county or town, or within one, two, or three miles of a particular church or school; others providing for the taking of a local option vote; others giving licensing powers to certain municipalities; and in one case at least fixing a high licence fee. In some instances the sale by retail or in quantities less than a fixed amount (*e.g.*, ten gallons) is alone forbidden.

The existing general licence law provides in substance as follows:—

Licences to sell spirituous, vinous, or malt liquors by retail (*i.e.*, in quantities less than five gallons) are granted by the County Court. Notice is to be given of each application; "and if the majority of the legal voters in the neighbourhood shall protest against the application, it shall be refused." The County Court determines what constitutes "the neighbourhood."

\* One of the evils arising out of the facilities allowed for special legislation was the growth of special jurisdictions ousting the ordinary Courts of Justice and setting up separate tribunals for particular localities.

The taxes on licences are as follows :—

	\$
On a licence to keep a tavern .. .. .	10
If with privilege to retail spirituous or vinous liquors, or both .. .. .	100
If with privilege to retail malt liquors .. .. .	50
If with privilege to retail spirituous, vinous, and malt liquors .. .. .	150
On a licence to retail spirituous or vinous liquors, or both .. .. .	100
On a licence to retail malt liquors .. .. .	50
On a licence to retail spirituous, vinous, and malt liquors.. .. .	150

The licence is valid for a year, and is not assignable.

The County Court has power to grant licences to keep taverns, but may not grant a licence to anyone who has not paid the licence tax, or who is of bad character, or who does not keep an orderly house, nor unless the Court believes the applicant is prepared with houses and stabling,\* bedding and provender, to keep an orderly, law-abiding tavern. The Court must also be satisfied that the keeping of a tavern at the place proposed is necessary for the accommodation of the public. The licence is liable to be revoked for cause.

The County Court is to fix the prices to be paid in taverns for liquor, lodging, stabling, &c.

The privilege to sell spirituous liquors is not implied in any licence to keep a tavern, or other place of entertainment, unless it is so specified.

A licence-holder who furnishes liquor to a known inebriate is liable to a fine of \$20 ; and, if notice forbidding the supply of liquor to such person has previously been given, a relative is entitled by action to recover " not less than a like amount."

Any person who, not being licensed, sells in any quantity wine or spirituous liquors for consumption on the premises is deemed guilty of keeping a tippling-house, and is to be fined \$60, or, if he keeps it for three months at a time, \$200.

Any person who, without lawful authority, sells by retail any vinous or spirituous liquors is liable to be fined \$20.

\* The provision as to stabling does not apply to cities or towns having over 15,000 inhabitants.

A fine of \$50 is prescribed for selling or giving liquor to an infant.

A Local Option Bill, intended to supersede the existing Statute\* dealing with that subject, was introduced at the Session of 1893, and in March was still before the Legislature. As I was given to understand that it was likely to pass without important alteration, I give the following summary of its provisions :—

On application of a number of voters in each precinct of the territory to be affected, equal to 25 per cent. of the votes cast at the last general election, the County Court Judge is to cause an election to be held on the proposition whether or not spirituous, vinous, or malt liquors shall be sold, bartered, or loaned therein, or whether or not any prohibition law in force by virtue of any general or special Act shall become inoperative. The area for which the vote may be taken is any county, city, town, district, or precinct.

If the majority is against liquor none may be sold, bartered, or loaned on pain of a fine from \$100 to \$200 for each offence ; but this prohibition does not extend to any manufacturer or wholesale dealer who, in good faith and in the usual course of trade, sells by wholesale in quantities not less than five gallons. Druggists also, unless they have been specially included in the reference to the electors, are excepted so far as regards the sale for medicinal purposes on a medical prescription. Physicians are subject to penalties for improperly prescribing intoxicating liquor, and the druggists are required to keep accurate registers of all sales of liquor, and to preserve every such prescription for twelve months.

\* By this Act, passed in 1874, the County Court Judge, on petition from twenty voters in any civil district, town, or city in his county, was required to cause an election to be held on the question whether or not spirituous, vinous, or malt liquors should be sold in such district, town, or city.

If the majority was against the sale, any person selling was to be fined from \$25 to \$100 for each offence ; but the prohibition did not extend to sales by wholesale, nor to sales by druggists for medicinal purposes on a medical prescription. A physician improperly giving such a prescription was liable to a fine of \$25.

An election under this law might not be held oftener than every two years.

If at an elect on held for an entire county the majority vote for licence, this vote is not to affect any town or portion of the county in which the sale of liquor has previously been prohibited by local option vote or special Act, unless (in the case of a local option place) the majority of the votes cast in the place itself are in favour of licence.

A local option vote is not to be taken more frequently than once in three years, nor within thirty days of any regular political election.

All saloons must be closed, and all traffic in and giving of liquor is prohibited on the day of a local option election, under penalty of a fine of \$100.

No official returns are made showing to what extent local prohibition is in force. I understand that, geographically, more than one half of the State is under prohibition, the rural precincts having widely adopted it, as well as some towns. Among the latter, the vote in some cases is apt to swing to and fro between "wet" and "dry"; but in the centres of population the liquor interest generally prevails.

The "coloured" vote is an important element in the disposal of this question; and the negroes usually incline to vote for whisky. Although many and various expedients have been adopted for keeping down the negro vote, yet on issues where the white population is strongly divided, as it is on the saloon question in the towns, it has a weighty influence in fixing the majority.

In Kentucky, as probably in all the old slave States, the opposition to the saloon is largely due to a sense of the specially dangerous effects of liquor on the coloured population, and to the crimes of violence to which it is apt to lead. The comparatively scanty immigration from the European countries to the South results also in fewer saloons and a less active resistance to anti-liquor legislation.

Though adopted, territorially speaking, in so large a part of the State, local prohibition does not affect nearly the same proportion of the population. It operates chiefly in the rural

districts in the South, where there are most negroes, and where the necessity of keeping down the traffic for the causes already mentioned is most generally felt. That it has had the effect of wiping out the "cross-road doggery" is considered by many to be its chief merit ; and the opinion appears to be strongly held that, while it may not have much affected the private use of liquor, its results have, on the whole, been beneficial in country districts. I did not, however, find evidence of much success in places where resistance to the law was at all persistent, and the opinion was more than once expressed to me that, except in purely rural communities, prohibition was not usually well enforced, though the conditions varied locally according to the strength and direction of the local sentiment.

### *South Carolina.*

A new departure in American liquor legislation was taken by the Legislature of South Carolina in December, 1892, by the passing of a "Dispensary Law" which is said by its supporters to be an adaptation of the Swedish system to American methods and requirements—the principle being no liquor at all where it is not wanted, and, where it is wanted, no private profits on the sale, and security for the quality of the liquor.

The new law has followed, and is, in part at least, the result of, an agitation carried on by the prohibitionists at the time of the State primary elections in 1892, when, through their action, separate ballot-boxes were put at all the polling-places for Democratic voters to cast a ballot on the question of prohibition. The agitation had derived strength from the lax enforcement of the existing law, especially in regard to the sale to drunkards and minors. On this vote the prohibitionists obtained a majority, but many voters took no part in it. The question had not been made a prominent issue at the election, and people had not been generally canvassed or roused on it.\*

\* The total number of voters at the primary elections was 88,500, and

When the Legislature met, several Bills were brought forward, the prohibitionists themselves urging a measure of complete State prohibition. The Act, as finally passed, was a compromise, but is by some regarded as a great step in advance, in the direction of a complete suppression of the trade.

In more quarters than one, however, I found indications that the cause of temperance was not the only motive which operated for the passing of the new law. It was, as I was assured, to a very great extent a financial measure, designed to increase the revenue of the State by adding to it the profits of the liquor trade; and the Act itself, of which a summary follows, shows that, if fairly enforced, the authorised profits would be about 100 per cent. on the original cost of all liquor consumed in the State, less the expenses of administration; which profits would be apportioned—one-half to the State, one-fourth to the county, and one-fourth to the municipality. It was carried by the party in power, for whom it attracted support from the prohibitionists, and also from those whose chief aim was to aid the revenue, which, owing to a falling off in the income derived from the phosphate-workings, and from railroads and other causes, required fresh sources of contribution.

The following is a summary of the main provisions of the new dispensary law, which itself occupies ten closely-printed pages.

The State board of control, consisting of the Governor, the Comptroller-General, and the Attorney-General, is to appoint in each county a county board of three persons, "believed" (by the State board) "not to be addicted to the use of intoxicating liquors." It is the business of these county boards to appoint dispensers of liquor. The Act declares that "there may be one county dispenser appointed for each county, except the city of Charleston, for the county of Charleston, where there may be ten dispensers; and

about 70,500 of them voted on prohibition, for which there was a majority of about 10,000.

except for the city of Columbia, for the county of Richland, where there may be three dispensers appointed." There is, however, a proviso that, "in the judgment of the county board of control, other dispensaries may be established in other towns in any county." Apparently, therefore, there is no limit on the number of dispensaries, except in Charleston and Columbia.

An application for a permit as county dispenser must be by petition, stating "the applicant's name, place of residence, in what business engaged, and in what business he has been engaged two years previous to filing petition ; that he is a citizen of the United States and of South Carolina ; that he has never been adjudged guilty of violating the law relating to intoxicating liquors, and is not a licensed druggist, a keeper of an hotel, eating-house, saloon, restaurant, or place of public amusement ; and that he is not addicted to the use of intoxicating liquors as a beverage." This petition must be signed and sworn to by the applicant, and must also be signed by a majority of the freehold voters of the incorporated town or city in which the permit is to be used ; each of whom must state that before signing he has read the petition and understands the contents and meaning, and is well and personally acquainted with the applicant.\*

A county dispenser, before receiving his permit, must enter into a penal bond for \$300 with sureties, and give a sworn undertaking in statutory form to comply with all the requirements of the Act.

"Before selling or delivering any intoxicating liquors to any person, a request must be presented to the county dispenser, printed or written in ink, dated of the true date, stating the age and residence of the signer for whom and whose use the liquor is required, the quantity and kind requested, and his or her true name and residence, and, where numbered, by street and number, if in a city ; and the request shall be signed by the applicant in his own true name and signature, attested by the county dispenser or his clerk, who receives and files the request, in his own true name and signature and in his own handwriting. But the request shall be refused if the county dispenser filling it personally knows the

\* Charleston has a population of 55,000 ; but I do not know what is the number of freehold voters. It seems likely, however, that applicants for the post of dispenser of liquor in Charleston will need to have a remarkably large circle of friends who are "well and personally acquainted with them."



person applying is a minor, that he is intoxicated, or that he is in the habit of using intoxicating liquors to an excess ; or if the applicant is not so personally known to said county dispenser before filling said order or delivering said liquor, he shall require identification, and the statement of a reliable and trustworthy person of good character and habits, known personally to him, that the applicant is not a minor, and is not in the habit of using intoxicating liquors to an excess."

Blank forms of request for the purchase of liquor are to be supplied by the State board of control ; and each dispenser is to make full returns monthly to the county auditor, together with a sworn statement certifying that he has made a full disclosure of all business transacted by him.

For the purpose of supplying liquor to the dispensers, the Governor (subject to the approval of the Senate) is to appoint a State Commissioner, "believed by him to be an abstainer from intoxicants," whose business it is to purchase pure liquor (giving the preference to manufacturers and brewers doing business in the State), and sell it to the county dispensers at a price not exceeding 50 per cent. above the net cost. This provision, however, does not apply to beer shipped in cases, or bottles thereof shipped in barrels.

No liquor (except beer) is to be brought into the State, or transported within it, otherwise than in a package bearing a certificate with the signature and seal of the State Commissioner, a requirement which carriers are bound under a penalty of \$500 to observe.\*

Manufacturers of distilled, malt, or vinous liquors, doing business in the State, are allowed to sell to no one in the State except the commissioner, and he is to sell only to the county dispensers in packages of not less than one half-pint, nor more than five gallons. The county dispensers are not allowed to break the packages, nor to obtain their supplies from anyone but the State Commissioner, and purchasers may not open the packages on the premises.

The dispensers are not to charge more than 50 per cent. above cost, and in sales to druggists for compounding medicines, etc., not more than 10 per cent.

The proceeds of sales by the State Commissioner go to the State ;

\* The constitutionality of this provision seems to be doubtful in view of previous decisions respecting the regulation of inter State commerce.

those of sales by the dispensers, after payment of expenses, are equally divided between the county and the municipality.

Severe penalties are enacted against all concerned who may be guilty of disobedience to the law.

Anyone concerned in keeping a "club-room or other place in which any intoxicating liquors are received or kept for the purpose of barter or sale as a beverage, or for distribution or division among the members of any club or association by any means whatever," is to be punished by a fine of \$100 to \$500, and imprisonment three to twelve months.

A place where liquor is illegally sold may be declared a nuisance (through proceedings taken before a judge in equity), and may be closed, and a perpetual injunction may be obtained.

The Governor is authorised to appoint State constables for the enforcement of the law.

A perusal of the clauses of this statute suggests a doubt whether it is likely to prove the vehicle for a satisfactory or permanent settlement of the question. Between the date of its passing and that at which it came into operation, attempts were made to overthrow it on technical grounds, but its validity as a constitutional measure was, I believe, upheld. I found, however, that grave doubts were entertained whether it would be possible to enforce it in some parts of the State, especially in Charleston; and many of the prohibitionists themselves seemed by no means to favour it even as a step in the right direction. In Charleston there is an active trade in liquor, and it was expected that the new law would there encounter much opposition. An ex-mayor of that city told me that during his term of office he had attempted to get the Sunday closing law enforced, but found the task impossible. Juries would not convict, many cases could not even be got to trial, the grand juries refusing to indict. The attempt had to be abandoned, and the authorities have since been obliged to content themselves with requiring the front doors to be closed, leaving customers to find admission by the side door. The sudden closing of the bar-rooms, and of the whole trade,

except through the State dispensaries, would, it was thought, lead to trouble, evasion, and not improbably—if any active steps were taken to enforce the law—to serious resistance. It seemed certain that the liquor-sellers in Charleston would adopt every expedient to render the law inoperative, and previous experience did not encourage a confident expectation that the opposition to it would be effectively broken down. One who had long resided and held official positions in this State told me that, with the inauguration of the dispensary system, he expected to see a large trade carried on in different parts of the State with the nearest points in Georgia and North Carolina; and by sea whisky, he said, could not be kept out. It might be concealed as dry goods, or in a hundred ways, but it would come. When I was in Charleston I heard the opinion more than once expressed that no long time would elapse before the new law was repealed. In some parts of the State, and especially in the north, the prohibitionists were, in the spring, vigorously agitating the question, and the clergy were impressing it on people as a religious duty to refuse to allow the establishment of a dispensary.

What turn the political question would take seemed uncertain; but it appeared to be not unlikely that the party in power would lose the support of the prohibitionists, who, it was thought, would not improbably run candidates of their own for the governorship and other offices. The development of the liquor question in this State (as in others) will greatly depend on general political issues.

The dispensary law contains a saving for all existing laws prohibiting the sale of liquor in any part of the State. A general local option law was enacted in 1882 allowing the direct veto in any incorporated city, town, or village. Outside of these incorporated places the issue of licences was altogether forbidden by a law of 1880; but several counties were, by subsequent Acts, exempted from this provision. Onwards from the year 1875 many special Acts were passed prohibiting the

sale of liquor near churches, places of education, and factories. In 1878 a general prohibition was enacted on the sale of liquor within a mile of any place of worship or education outside a city, town, or village (save in two counties which were subsequently excepted).

The following special legislation has been enacted in recent years :—

1879—82. Special Acts placed twenty-seven towns under prohibition, some of which have since abandoned it. Liquor-selling was also forbidden in the neighbourhood of certain factories.

1883. Barnwell county went under prohibition, but the Act was repealed in 1886. Iconee county did the same (with a saving for manufacturers) ; repealed in 1885.

1882—84. Prohibition in seventeen towns, one or more of which afterwards repealed it.

1882. Act of incorporation of the town of Shiloh ; retail liquor licence not to be less than \$20,000.

1885—87. Prohibition in fifteen towns, and near some cotton mills.

1886—88. Local option as to sale in the incorporated cities, towns, and villages in five counties (subject in two of them to a petition being presented by a majority of owners of real estate).

1888. Prohibition in six towns.

1889. Several prohibitory places withdrew the right of druggists to sell as medical prescriptions.

1889. Prohibition in ten towns.

1890. Prohibition in Marlboro' county and in sixteen towns.

1891. Prohibition in Williamsburg county and about eighteen small towns. In another town prohibition for ten years.

On the whole I was given to understand that not very many counties were under local prohibition ; some which had adopted it had given it up ; and the general standard of enforcement was not high. "Blind tigers" were said to be numerous ; and one resident in the State expressed to me his conviction that much more drinking went on in country districts than many people supposed, both at home and in the bar-rooms of country towns, where he had seen much drunkenness.

He mentioned that in one county in this State, which went under prohibition, shopkeepers put up jars of coloured fluid in their windows, calling themselves druggists, and sold liquor to all comers for "medicinal purposes"; prohibition there was worse than useless; while the raising of the question and the taking of the local option vote had stirred up ill-feeling, divided families, and led, in not a few cases, to serious quarrels.

All the towns under prohibition are small; not one, I believe, has a population amounting to 3,000; most of them have much less than that number.

## CHAPTER XIX.

## OTHER STATES.

*New York.*

THE liquor question in New York State hardly appears to be in a condition offering much for the guidance of legislators attempting to deal with this question. The liquor trade is exceptionally powerful in New York City, and that city has a preponderating influence in the State. Proposals dealing with some part of the subject are repeatedly brought forward in the Legislature, some of which become law, but the treatment of such matters is affected by political and party considerations which it would be long and tedious, and for the present purpose (I believe) little profitable, to discuss. A high-licence measure has at least twice passed through both Houses of the Legislature, and been vetoed by the Governor ; but the high licence party are still in the field, and hope in time to win their cause.

A consolidating Act was passed in 1892,\* which embodies the greater part of the law now in force on the subject in this State.

The licensing authority in every city and town in the State is a Board of Excise Commissioners ; but in towns they are elected at the annual town meetings,† while in cities they are appointed by the mayor, or (as in New York City and Brooklyn) nominated by the mayor, subject to confirmation by the Board of Aldermen.

An applicant for a licence must be a citizen of the United States, resident in the State, and be of good moral character approved by the Board.

\* Chapter 401 of the Laws of 1892, entitled "An Act to revise and consolidate the laws regulating the sale of intoxicating liquors."

† "Towns" includes the rural sub-divisions (townships).

Six kinds of licences are recognised by the Act—

1. Hotel, on and off. 2. Saloon, on and off. 3. Saloon, beer, on and off. 4. Store, off. 5. Druggist, off. 6. Additional, for opening between 1 a.m. and 5 a.m.

In cities of over 30,000 inhabitants a refusal by the Board to grant a licence may be reviewed upon a writ of *certiorari*, and the court may compel the issue of the licence if it determines that the application was denied arbitrarily, or without good and valid reasons.

On conviction of certain offences the licence is *ipso facto* void; the Board of Excise also may revoke a licence on a second (in some cases on a first) conviction, subject to appeal by *certiorari*; and the Board is bound to hear complaints of violations of the law by a licensee, and, on proof, cancel his licence.

The law of 1892 recognises the direct veto by enacting that the foregoing provisions are not to apply to any town where the majority of voters vote for local prohibition; but no provision appears to be made for the taking of such vote. As a matter of fact local option has had some operation in the State through the action of Boards of Excise Commissioners elected with a view to the refusal of all licences. I endeavoured to ascertain to what extent this had taken place; but I was not able to obtain any official or precise information. I was, however, informed by a gentleman who took interest in the matter, on the prohibition side, that it would be safe to reckon 150 "dry" townships in the State. Another reckoned the number to be from 100 to 150.\*

The rules of the Board of Excise for New York City provide that no licence for a bar-room will be issued for a new place except on the closing of an existing place. Application for a new licence must have the consent of the owner of the property, and it must be shown that the requirements of the neighbourhood demand it, or that it will serve the public

\* Ithaca (the seat of Cornell University) has lately for the first time refused all licences. I heard of another place which had just reopened saloons after being "dry" for thirteen years.

convenience. A new place will not be licensed in the immediate vicinity of a church, schoolhouse, hospital, or asylum. A third corner will not be licensed for a new place. An on-licence will not be granted at any place connected with a grocery or provision store.

The following table, taken from the reports of the Commissioners of Excise, shows the number and classification of licences granted in New York City in the years 1888 and 1889, the latest years for which I could obtain the figures :—

Description of Licence.					Number of Licences.		Licence Fee.
					1888.	1889.	
<i>On-licences :—</i>							\$
Hotels	...	...	Class 1	...	119	108	250
"	...	...	" 2	...	139	154	200
Liquors, beer and wine	...	...	" 3	...	5,862	5,857	200
Beer only	...	...	" 5	...	222	194	30
Beer and wine only	...	...	" 6	...	1,307	1,266	50
Restaurant	...	...	" 7	...	118	152*	100
Steamboat	...	...	" 8	...	42	56	50
Total on-licences†					7,809	7,787	
<i>Off-licences :—</i>							
Storekeepers, Class 4, Grade A	...	...	B	...	43	29	250
"	...	...	" C	...	24	17	150
"	...	...	" D	...	42	42	100
"	...	...	"	...	862	1,010	50
Total off-licences					971	1,098‡	
Aggregate, on and off ...					8,780	8,885§	

\* Under a restaurant-licence no bar is permitted, and liquor may be served with food only. There were, in 1889, 575 other restaurants, where a bar was permitted; but many of them had no bar. Of these, 375 were Class 3, 76 Class 5, and 124 Class 6.

† The total number of places having on-licences in 1889, other than hotels, restaurants, and steamboats, was 6,742—a decrease of 78 from the preceding year.

‡ An increase of 127, chiefly from the growth of the grocery and beer-bottling businesses.

§ In 1891 and 1892 the total numbers were respectively 9,506 and 9,327, and the receipts \$1,501,500 and \$1,523,780.

|| These fees were raised in 1893 to \$200, in consequence, it is said, of the extent to which drinking on the premises was carried on.



The receipts for licences were \$1,430,420 in 1888, and \$1,442,770 in 1889.

In 1888, the Board held 1,177 trials in examination of complaints for violation of the Excise Law, of which 940 were upon complaints against persons holding beer and wine licences, for selling spirits,\* and 107 were against storekeepers charged with allowing consumption on the premises, and 875 licences were revoked.

In the following year the numbers fell off, there being only 167 cases brought before the Board, and 40 revocations. In 1888, 767 applications were rejected; in 1889, 358.

The rule that no new licence for a bar-room is granted except on the discontinuance of an old one operates, as the city extends northward, to reduce the number at the crowded southern end. There has been in late years a diminution of beer licences by 900, and an increase of general on-licences by 400—a net reduction of between 400 and 500.† The new premises are generally of a higher class, representing more capital, and they take out a full licence. The rule has given a fairly high selling value to the licence of a small beershop down town, when it can be sold to an applicant desiring to open a high-class saloon in one of the new streets at the other end. Restaurant licences have increased; hotel licences remain about the same; new hotels have been built, but some of the old ones have now to take an ordinary saloon licence, not coming within the present definition of an hotel.

There is much opposition in various quarters to any very large reduction in the number of saloons, on account of loss of revenue. The saloon commands a high rent, and is therefore

\* I was told at the office of the Commissioners of Excise that this kind of offence had given a good deal of trouble.

† The report of the Excise Board, presented in 1893, shows the substitution of general for beer licences to have continued, the number of the former having risen to 6,644.

more highly taxed than the same premises would be without a licence. Consequently the reduction of saloons would mean an increase of taxation to the general public, unless indeed it were combined with the adoption of a higher licence fee.

Though beer licences are being replaced by general licences, I was told, by one who should know, that beer has in recent years come into increased consumption in New York, the Irish taking to it.

A very complete record is kept at the office of the Board of Excise of all matters relating to each licence-holder and licensed house, with full indices for ready reference.

A member of the Board of Excise expressed himself to me in terms strongly favourable to the English system of attaching the licences to the premises, on the ground that it gives a better control. A house will command a higher rent as a saloon than if let for any other use. It is therefore the owner's interest (if the licence attaches to the house) to take care that the licensee is a man of good character, who will comply with the law and not imperil the licence.

The figures in the following table are taken from the Report of the Police Department of New York City (pop. 1,515,300). Sunday closing is not strictly enforced.

	1890.	1891.
<i>Arrests—</i>		
Intoxication ... ..	23,170	26,002
Intoxication and disorderly conduct ... ..	8,314	8,679
Disorderly conduct ... ..	...	15,339
Violation of Excise Law...	4,743	3,420
	(3,975 on Sunday)	(3,160 on Sunday)
All offences ... ..	84,556	90,124
Persons aided, suffering from alcoholism ... ..	...	409
Strength of police force ...	3,525	3,643
Cost " ... ..	...	\$4,737,161

The following figures are for Brooklyn (pop. 806,300):—

	1890.	1891.
<i>Arrests—</i>		
Intoxication ... ..	22,547	22,552
Disorderly conduct ... ..	338	399
Violation of Excise Laws ... ..	...	69
All offences ... ..	38,314	37,319
Licences issued... ..	..	3,959
Strength of police ... ..	1,250	1,319

### *Connecticut.*

The following account of the licence law in Connecticut, by the Hon. Francis Wayland, LL.D., Dean of the Law School at Yale, clearly describes the leading features of the Act, which, in some respects, is peculiar. There is also a local option law, operating by direct popular vote, which may be taken in each town (township):—

“The controlling principle which underlies the present Licence Law of Connecticut is this: that as the traffic in intoxicating liquors is liable to serious abuse, being frequently so prosecuted as to be dangerous to the peace, good order, and well-being of society, it should be entrusted only to suitable persons in suitable places. It assumes that the legitimate province of a licence law is to restrain and regulate—to restrain, by withholding licence from unsuitable persons, or from those who desire to sell in unsuitable places; to regulate, by punishing those who violate the provisions of the law.

“The same principle is often applied to the sale of poisonous drugs—the traffic in these articles being restricted to ‘licensed pharmacutists,’ *i.e.*, those who have been found, on examination, to be suitable persons to engage in an occupation which presents so many opportunities of inflicting serious injuries upon others.

“In Connecticut, a candidate for a licence to sell intoxicating liquors must present to the Licensing Board an application endorsed by five legal voters and taxpayers, not one of whom must be a licensee or an applicant for a licence. No man can endorse more than a single application. The certificate of the town clerk to the

fact that the endorsers are voters and taxpayers must accompany the petition. Further, the application, so endorsed, is to be published in a newspaper at least two weeks before it is acted on by the licensing board.

"When the law has been complied with in these particulars, *primâ facie* proof has been furnished that the applicant is a 'suitable person.' But there remains another test. Any citizen of the town in which the applicant proposes to do business may file with the licensing board his objection to the granting of a licence to said applicant, and the objector shall be duly heard after reasonable notice to both parties. If the objection is sustained, the licence will not be granted. If no objection is filed, or if, having been filed and heard, it is not sustained, the applicant is obliged to take one step further; he must sign a bond in the sum of \$300, conditioned on his compliance with the provisions of the Licence Law. The surety must be someone who is not a dealer in intoxicating liquors, and is not a surety on any other bond.

"The authority to license is entrusted to 'County Commissioners.' These officials—three for each county—are elected by the Legislature, each for the term of three years, and one chosen every year. Not being elected by popular vote, they are largely independent of popular clamour, while a majority of the members of the board must always be familiar with their official duties. To this board is also confided another very important function, viz., the power of revocation. As all licences are granted on the basis of *suitability*, when it is made to appear to the County Commissioners that in a given case the law has been violated, they may conclude that the offender is not a suitable person, and may revoke the licence. But if a licensed person shall have been *convicted* of a violation of the law, 'he shall, in addition to the penalties prescribed for such offence, incur a forfeiture of his licence and all moneys that may have been paid therefor, and the County Commissioners shall thereupon revoke his said licence, and he shall not thereafter for the space of one year from the date of said revocation be capable of receiving any licence to sell spirituous and intoxicating liquors.'

"In the latter instance, as will be observed, revocation follows inevitably upon conviction; in the former case, revocation *may* be the result of a hearing upon complaint only made. In no case is there any appeal from the action of the Commissioners.

"The whole proceeding means simply this: the commissioners granted a licence to A. B. in the belief that he was 'a suitable

person ' to engage in an occupation dangerous, in unsuitable hands, to the well-being of society. He has proved unfaithful to the trust and it is withdrawn.

"The County Commissioners are also to appoint as many ' prosecuting agents ' as may be deemed necessary for each county, whose business it shall be to prosecute offenders against the law.

"The *minimum* fee for a licence is fixed at \$100 ; the maximum fee at \$500. Practically, the amount is usually \$100, and very rarely exceeds \$200. The design of the law is to determine the fitness of a man to be a legalised liquor-dealer, not by his ability to pay a large fee, but by other and, it is thought, more logical and justifiable methods. Experience has not yet demonstrated that the richest rum-sellers are by any means the most trustworthy.

"Druggists licensed by the ' Commissioners of Pharmacy ' may, in compounding prescriptions, use intoxicating liquors, and may sell them upon the prescription of any practising physician ; but no druggists' licence shall authorise the sale of intoxicating liquors to be drunk on the premises.

"The principal offences against the Connecticut Licence Law are : sales on Sunday, on election days, after midnight, to minors, to intoxicated persons, to an habitual drunkard, knowing him to be such ; to any husband, after having received notice from his wife not to sell or to deliver intoxicating liquor to him ; or to any wife, after having received notice from her husband not to sell or deliver said liquor to her, etc. etc.

"There are provisions for seizing liquor in unlicensed places, for giving effect to ' local option,' for appointing agents to sell intoxicating liquor in towns which have voted ' no licence ' ; but as these and a few other features are found in the licence laws of many of our States, they have not been thought deserving of especial mention—our object being to call attention to those features which are believed to be peculiar to the Connecticut law. Of these, the most important are those which seek to determine who among applicants are ' suitable.' They have certainly diminished materially the number of applicants, and as certainly have provoked the active hostility of almost every liquor-dealer in the State.

"The law has only been in operation a few months ; but already it has vindicated itself against the charge of ' inefficiency.' Not the least gratifying indication is, that the necessity of procuring the endorsement of ' five legal voters and taxpayers ' (meaning those ' persons who pay a tax upon real or personal property, assessed

upon the grand list of the town in which they reside"), practically cuts off many utterly worthless and irresponsible applicants, who had heretofore found no difficulty in obtaining a licence. And this, not because they are poor, but because they cannot find five citizens who are willing to stand sponsors for their good character, or even good intentions.

"The design of the law in providing that the endorsers shall be 'taxpayers' as well as 'legal voters,' that no man shall endorse more than one application, and in requiring publication of the application with the names of the endorsers, will, it is believed, readily occur to any intelligent person at all familiar with the history of temperance legislation."

*Arkansas.*

The following report on local option and the liquor trade in Arkansas was published in the *St. Louis Post-Dispatch*, March 26th, 1893. The difficulty of obtaining the repeal of special prohibitory laws when demanded by a change in the local sentiment seems to be peculiar to this State—at least, no such difficulty was brought to my notice in any of the southern States which I visited, where I found many cases of the repeal of such laws.

LITTLE ROCK, Ark., March 25.—"The authority vested in the Legislature to enact special laws prohibiting the sale of intoxicants within a specified distance of a church or school-house in any locality where a majority of the citizens residing in the territory desire the banishment of the saloon has been freely exercised during the present session of the General Assembly. The wholesale liquor dealers of St. Louis, Cincinnati, and Louisville have had their representatives here, but, despite all their arguments, only one bill of this character has been defeated, that exception being the one which proposed to prohibit the sale of liquor within ten miles of the Hope Female College in Hempstead County. In this case the merchants and business men of Hope and Washington took a hand in the fight, and the influence was too great for the Legislature to ignore it. All other Local Option Bills introduced in either House have passed without debate, and by large majorities.

"The laws of Arkansas provide three ways by which the sale of whisky and other fermented liquors may be prevented.

"At every general election the voters of each county decide whether or not the county shall grant a licence to saloon-keepers. At the election in September, 1892, one-third of the counties in the State voted against licence, as follows :—Ashley, Bradley, Calhoun, Cleveland, Columbia, Dallas, Drew, Franklin, Fulton, Grant, Hot Spring, Izard, Johnson, Lawrence, Lonake, Madison, Marion, Polk, Pope, Saline, Sharp, Union, Van Buren, and Washington.

"Licence for dramshops is denied if a majority of the adult citizens within three miles of a church or school-house petition the County Court, remonstrating against it. This is the second way by which the sale of liquor may be prohibited.

"The third and most effective scheme by which the saloon may be shut out of a community is by special act of the Legislature. Special laws of this character have been enacted since 1883, and none of them have been repealed. No matter how numerous signed the petition may be praying for the repeal, the Legislature always refuses to obliterate the circle within which the sale of the ardent is prohibited.

"During the present session of the Legislature two Bills were introduced asking the repeal of Local Option Laws. The first concerned Jonesboro, the county seat of Craighead County. Hon. Emmet Rodgers, an active, intelligent, and energetic young journalist, was elected Representative from the county by a majority of almost two to one, the issue in the primary canvass being the question of the repeal of the four-mile law at Jonesboro, enacted by the Legislature of 1887. Mr. Rodgers was in favour of the repeal of the law. In the formation of the House committees, Mr. Rodgers was made chairman of the Committee on Temperance. He brought to the Legislature a petition signed by nearly all the citizens of Jonesboro and vicinity affected by the law, asking for its repeal. The House, after considering the question an entire afternoon, defeated the Bill. Mr. Rodgers resigned the chairmanship of the committee a few days ago. He said he believed in local self-government; was in favour of recommending the passage of bills prohibiting the sale of intoxicants within localities where the majorities of citizens desired such laws, and was also willing to make similar reports upon Bills to repeal such laws when desired by a majority of citizens and taxpayers. He believed the rule should be allowed to work both ways.

"The second case in which the Legislature declined to repeal one of these Acts was that in which Batesville, Independence

County, was interested. This law prohibits the sale of intoxicants within three miles of the Arkansas College, located in that town, and was enacted by the Legislature of 1891. Since that time a couple of fruit distilleries have been established near Batesville, and a majority of the citizens came to the conclusion that if they could only throw off the shackles of prohibition times would be enlivened in their midst, and instead of the blind tiger a few saloons might be established in the town from which the county and municipality might derive considerable revenue. Much time was consumed in discussing the Bill, which finally suffered defeat like the Jonesboro measure.

"In about one-half of the territory in the State of Arkansas the sale of intoxicants is prohibited. In addition to the twenty-four counties which voted against licence at the September election, Local Option Laws are in force at the following places, the limits averaging from three to ten miles."

[Here follow the names of about fifty places.]

"Thirteen Bills prohibiting the sale of liquor in as many localities have been introduced in this Legislature, nine of which have passed, the remainder being on their second and third readings. Should all the Local Option Bills now pending become a part of the statutes, which they undoubtedly will, the territory in Arkansas in which the sale of whisky is prohibited by special Acts would extend over an area aggregating about 3,927 square miles. The counties which refused to vote for licence last September contain 18,950 square miles. This added to the number of square miles in the territory made prohibition districts by special legislation gives a total of 22,877. There are 53,850 square miles in Arkansas, of which 22,877 are under prohibition rule, and in 30,973 whisky is allowed to be sold. Not less than 10,000 of the latter include swamps and inaccessible territory, and if absolutely correct figures could be obtained it could be shown that over one-half of the State of Arkansas was under control of the prohibitionists. More Bills affecting the liquor interests were introduced in this Legislature than on any other subject. The dealers, both wholesale and retail, are much alarmed over the drift of legislation, and during the coming two years they propose to organise and have something to say as to who shall be members of the next Legislature in order to stem the tide which threatens to engulf their interests."



*Texas.*

The Constitution of 1876 requires the Legislature of the State to pass a local option law. That law provides as follows :—

The Commissioners' Court for each county, "whenever they deem it expedient," may order an election to be held for the county or for any justice's precinct, town, or city therein ; and they are bound to order an election when petitioned by 200 voters of the county or 50 voters in any justice's precinct, town, or city. A subsequent election is not to be held in less than two years ; but a failure to carry prohibition in one area does not prevent a vote being taken in another area, wholly or partly including the former. Conversely, however, where prohibition has been adopted in a larger area, a vote for repealing it cannot be taken in a smaller area contained in it.

The penalty for illegal selling in a prohibition area is a fine from \$25 to \$100 *and* imprisonment twenty to sixty days ; for keeping a blind tiger, imprisonment two to twelve months *and* fine \$100 to \$500, and a separate offence for each day. "Blind tiger" is defined to mean "any place in which intoxicating liquors are sold by any device whereby the party selling or delivering the same is concealed from the person buying or to whom the same is delivered."

The licensing law fixes the following liquor taxes :—

*State tax.*

		\$
Sale of liquor by retail (less than one quart)	...	300
" (one quart and less than five gallons)	...	200
" (five gallons and upwards)	... ..	300
" (malt liquor only)	... ..	50

Commissioners' Courts of the several counties may levy an additional tax equal to one-half the State tax.

Incorporated cities and towns may levy an additional tax equal to that levied by the Commissioners' Court.

A year's taxes must be paid in advance.

Every dealer has to enter into a bond of \$5,000 \* with at least

\* The validity of this requirement has been sustained by the United States Supreme Court.

two sureties approved by the county judge, as security for obedience to the law, and for keeping "an open, quiet, and orderly house." On breach of any condition the county attorney is to proceed for the recovery of \$500 on the bond.

County clerks are to issue licences on payment of the taxes and execution of the bond.

I did not myself visit Texas ; but, through the assistance of a friend holding an official position which placed him in communication with representative men in all parts of the country, I was enabled to obtain from persons resident in that State, and well acquainted with its condition, information in reply to questions regarding the practical working of local option.

From their statements it appears that but a slight measure of success can be claimed for this law. I am given to understand that the majority of the counties and portions of counties which passed a prohibitory vote have since reversed it, and that very few are now under prohibition. Local option, in short, has generally been a failure. There are no towns of any considerable size under prohibition. There has been little or no special prohibitory legislation such as has been common in some of the other southern States.

There is said to be no general dissatisfaction with the existing licensing law, nor any active movement for bringing about a change in it. Whisky-selling under a beer licence has, however, been prevalent.

Though generally it has failed, local prohibition is nevertheless declared, in the exceptional cases in which it has been efficiently enforced, to have had beneficial effects. One writer says, "If public sentiment is very strong, I think it is fairly well enforced ; but if not, it is a farce. I think that, as a general rule, where it has been enforced the effects have been beneficial and satisfactory, and it is continued."

## CHAPTER XX.

## CANADA.

THE Dominion of Canada has been the scene of much prohibitionist activity and of various experiments in local optional prohibitory legislation. The liquor question is here somewhat complicated by the circumstance that legislation proceeds from two sources—the Dominion Parliament and the Provincial Legislatures, whose respective powers in some degree overlap, and in some degree are not yet clearly defined. In Quebec and Ontario, also, the continuance of old laws, existing prior to the confederation of the provinces in 1867, imports yet a third element into the mass of legislation affecting the liquor traffic.

The action of the Parliament at Ottawa may be very briefly summarised. In the years 1873, 1874, and 1875 petitions were presented to the Dominion Parliament praying for a prohibitory law. In 1874 commissioners were appointed to investigate the working of prohibition in the United States, and they presented a collection of facts and statistics considered favourable to prohibitory legislation. Reports recommending a prohibitory law for the Dominion were submitted by a Select Committee of the Senate and Commons, and adopted by both Houses. Legislation was, however, hampered by doubts as to the jurisdiction of the Dominion Parliament to legislate, but at last, in 1878, the Canada Temperance Act (generally known as the Scott Act) was passed. The Act is a local option measure, enabling any county or city throughout the Dominion, by a popular vote, to prohibit therein the sale of liquor (except by wholesale for removal outside the county), and providing for the punishment of offenders by fines of not less than 50 dollars for the first offence, 100 dollars for the second offence, and by imprisonment not exceeding two months for any subsequent offence. Provision is made for the issue of

warrants for search and seizure. Liquor can, however, be sold for sacramental, medicinal, and trade purposes, on production of a certificate from a clergyman, doctor, or two justices. The Act was, at one time, adopted to a considerable extent in Ontario, Quebec, and the Maritime Provinces; but it has now (except in the Maritime Provinces) fallen generally into disrepute.

The constitutionality of the Act was for some time a matter of doubt and litigation. The British North America Act gives to the Legislature of each province the exclusive power to make laws in relation to shop, saloon, and tavern licences, in order to the raising of a revenue for provincial, local, or municipal purposes; also in relation to property and civil rights in the province, and generally all matters of a merely local or private nature in the province. It was argued that these provisions conferred on the Provincial Legislatures exclusive power in all matters relating to the drink traffic. The matter came finally before the Privy Council, which rejected this view, and held that the Act was within the general powers of the Dominion Parliament to make laws for the peace, order, and good government of Canada.\*

The Scott Act, however, was not the first experiment in prohibitory legislation tried in Canada. The Legislature of New Brunswick, as long ago as 1855, had passed a prohibitory law for that province; but, a general election immediately following, the law was repealed before it was ever put in force. And at the time when the federation of the North American provinces took place in 1866—67 a law (generally known as the Dunkin Act) had for some years been in operation in Upper and Lower Canada, enabling municipalities to pass bye-laws prohibiting the sale of liquor, which law, like all

\* *Russell v. the Queen* (1882), 7 App. Ca. 829. Questions of *ultra vires* have arisen in connection with other Acts of both the Dominion and the Provincial Legislatures. A Licensing Act, passed in 1883 by the Parliament of Canada, was subsequently repealed on this ground.

other prior laws, remained unaffected by the union, and operates in many places in the province of Quebec down to the present day.

The recent tendency of the prohibition party in Canada has been to abandon the movement for local option and to agitate for a general prohibitory law, either for each province separately, or, preferably, for the whole Dominion.\* No province has yet passed such a law. A popular vote in its favour was, however, in 1892, carried in Manitoba, and it remains to be seen whether the Provincial Legislature will proceed to give effect to that vote; if it does so, the legal question may be tested whether or not such a law is *ultra vires*.†

\* At the meeting of the Dominion Council of the Alliance for the Suppression of the Liquor Traffic, on the 23rd of September, 1892, the committee on legislation presented their report, in which the following paragraph appeared:—

“That we deem it unwise to make any general effort for the adoption of the Scott Act or local option measures in other constituencies, for, while the Scott Act has been to some extent useful in educating public sentiment, the time has now come when it is unwise for temperance workers to expend their energies on anything short of national prohibition.”

A warm debate followed on this clause. Mr. J. R. Dougall opposed it on the ground that it was a reflection on the Scott Act and on the local option work accomplished by the Dominion Alliance in the past. Ultimately the clause was sent back to the committee for verbal changes, so that there should be no appearance of discouraging local option efforts. Later it was presented amended to the effect that, while the Alliance desired to be understood as working for the suppression of the liquor traffic, and would urge people to continue their efforts, yet it would heartily endorse every legitimate means to further that end by weakening the liquor interest and educating the people. As amended it was adopted.—*Montreal Daily Witness*.

The Council proceeded to discuss measures for pressing prohibition in the Dominion and Provincial Legislatures by forming local political clubs and refusing to support any candidate who did not pledge himself to support the cause.

† Since the above was written the Legislature of Manitoba has petitioned the Dominion Government for permission to enact a prohibitory law, but no further steps were taken, during the session of the Provincial Legislature in 1893, towards prohibition.

Still more recently the Legislature of Ontario has decided to submit the question of prohibition for that province to the electors, and the vote is to be taken early in 1894.

A Royal Commission was appointed in 1892 by the Canadian Government to investigate the whole question of liquor legislation.\* It commenced its public sittings at Halifax, N.S., in July, 1892, and proceeded to take evidence throughout the Maritime Provinces, going on thence to Quebec and Montreal, at which latter place it adjourned towards the end of September, with the intention of proceeding to the western part of Canada, before sitting in Ontario. It was understood that the Commission would also prosecute its inquiries in the United States, and would in all probability not present its final report till after the summer of 1893.† The official report of the earlier proceedings was not obtainable when I was in Canada.

The Scott Act, which, as already indicated, extends throughout the Dominion, was first adopted by the city of Fredericton, New Brunswick, in October, 1878; since April, 1886, no place has newly adopted it. Between these dates

\* *Canadian Royal Commission on Liquor Traffic*.—Sir Joseph Hickson, Knight; Herbert S. McDonald, Esq., County Court Judge; Edward F. Clark, Esq., of Toronto; George Auguste Gigault, of St. Cesaire; and the Rev. Joseph McLeod, D.D., of Fredericton, N.B., are appointed commissioners for the purpose of obtaining for the information and consideration of Parliament the fullest and most reliable data possible, respecting, *first*, the effects of the liquor traffic upon all interests affected by it in Canada; *second*, the measures which have been adopted in this and other countries with a view to lessen, regulate, or prohibit the traffic; *third*, the results of these measures in each case; *fourth*, the effect that the enactment of a prohibitory liquor law in Canada would have in respect of social conditions, agricultural business, industrial and commercial interests, of the revenue requirements of municipalities, provinces, and of the Dominion, and also as to its capability of efficient enforcement; *fifth*, all other information bearing upon the question of prohibition.

† In the spring of 1893 the Commission had extended its investigations into Kansas, and was subsequently in Maine.

it was adopted in sixty-three counties and cities. It is now in force in only thirty, of which twenty-four are in the Maritime Provinces.

*Nova Scotia.*

Taking these provinces first, we find that in Nova Scotia, with eighteen counties and one city, the Act was adopted by thirteen counties, and is now in force in twelve (Colchester county having abandoned it). Practically, however, prohibition is the rule throughout nearly the whole of the province, in counties where the Act has not been adopted as well as in those in which it is in force, seeing that, outside the city and county of Halifax,\* no licence is, in fact, issued, and whatever retail trade in intoxicants exists is illegal.

A summary of the licence law of Nova Scotia will be found on p. 400, from which it will be seen that in those parts of the province where the Scott Act is not in force the liquor traffic is regulated by a provincial Licence Act passed in 1886, authorising the issue of, *first*, hotel licences; *second*, shop licences; and, *third*, wholesale licences (as to which latter a question of *ultra vires* has been raised). The signatures of two-thirds† of the ratepayers in a district have to be obtained before a licence can be granted; and the effect of this requirement (which existed also in the old law prior to 1886) has been that in many counties no licence has been issued for twenty or thirty (in the case of Yarmouth fifty) years. The Act of 1886 abolished saloon licences, providing only for sale in hotels to bonâ fide guests, and in shops in quantities not less than a pint for off-consumption. The Provincial Secretary has stated in an official memorandum that the prohibitionists who secured the passing of this legislation admit that it has not fully succeeded

\* In Halifax city (population in 1891, 38,500) there are 67 shop and 30 hotel licences. In the county outside the city only two licences are said to be issued.

† In Halifax city three-fifths.

in stopping bar-drinking ; that it is said that there are as many bars as before, and that public opinion will not allow of full enforcement ; but that the prohibitionists attribute the failure to the fault of the officials. In rural districts, where there is a strong temperance sentiment, he says that the Act is well observed.\*

The Royal Commission (already mentioned) commenced its inquiry in Nova Scotia, where evidence was taken at various places during July and August, 1892. It would be hardly possible within the limits of this statement to attempt a complete summary of the evidence, even if a full report of it were available. The newspaper reports show that a great number of contradictory opinions were expressed by the friends and opponents of local option and prohibition, as regards both the past working of the existing laws and the possibility of successfully enforcing a general prohibitory law. The abolition of bars and the reduction in the number of licences in the city of Halifax does not appear to have reduced drunkenness—the convictions numbering in 1885, 608 ; in 1886, 752 ; in 1887, 746 ; in 1889, 715 ; in 1890, 908. Unlicensed selling seems to have increased, and 106 cases of this offence came up between March, 1887, and November, 1889. There was also evidence that, since bars were made illegal, men would get a bottle of spirits from a shop and share it outside. In the province, generally, it seems certain that drunkenness has greatly diminished during the last thirty or forty years ; but opinions differ as to the share in this result attributable to restrictive laws.

Evidence, however, was given of the marked and steady growth of temperance for years before the Scott Act. The evidence as to the extent to which the law was successfully enforced was conflicting and inconclusive ; but from the positive statements of some witnesses it seems evident that in some, if not in most, of the towns drink is obtainable by

\* Parliamentary Paper C. 6,670, 1892.



anyone who wishes for it.\* On the whole, however, there can be little doubt that the consumption is small ; nor (outside Halifax—perhaps not even there) does a great amount of drunkenness appear anywhere to prevail. Some witnesses favoured general prohibition on the ground that it would be more easily enforced than prohibition by local option. At Yarmouth (population, 6,000), where no licence has been issued for more than fifty years, there seemed to be a good deal of drinking ; the “bottle peddlers” being the chief cause of trouble. Out of 154 summary convictions in 1891, 76 were for offences connected with drink, and it was said that a great many more “drunks” were sent home than the number arrested. There appeared, however, to be considerable activity in Yarmouth in the enforcement of the law.

### *New Brunswick.*

Since the passing and repeal of the prohibition law of 1855, New Brunswick has been subject to licence laws of constantly-increasing stringency ; the present Act was passed by the Provincial Legislature in 1887 (for summary, see p. 402). A committee of the Executive Council of the province has recently reported † “that, in communities where there is a strong public sentiment in favour of the Scott Act, it has worked well and has lessened in a marked degree the evils resulting from drinking in taverns ; this is true more particularly of country districts. In the larger towns and cities the Act has not been so well enforced, and the committee think it cannot

\* One who had recently been through the Maritime Provinces with the Royal Commission told me that he believed there was only one town throughout those provinces where drink could not be purchased. This was Marysville, in New Brunswick, near Fredericton, the whole town being the property of a single owner who allowed no liquor to be introduced.

† Parliamentary Paper C. 6,670, 1892.

be truthfully said that very beneficial results have, as a general rule, followed its adoption in such cities and towns, though, undoubtedly, an exception must be made in the case of one or two towns where the Act has been quite rigidly and successfully enforced." One reason assigned for the fact that more satisfactory results have not ensued is the number of legal questions that have arisen. The committee declare themselves unable, owing to the absence of statistics, to give any trustworthy information in regard to the diminution of crime. The Liquor Licence Act of 1887, which is in force wherever the Scott Act is not adopted, is declared by this committee to be a very efficient licence law, the principal features being high licence, limited number, early closing on Saturday, and separation of the saloon from other kinds of business.

The evidence taken before the Royal Commission was, as in Nova Scotia and elsewhere, inconclusive as regards the practical efficiency of the Scott Act. It was evident, however, that in some places it was very ineffective. At St. Stephen (population, 2,700), where the Act was adopted, 634 summary convictions out of 763 since 1886 had been for drunkenness. In this place the following statistics were given :—

No. of Licences.						Cost of Police.
1875	...	...	...	36	...	\$1,060
1876	...	...	...	27	...	1,085
1877	...	...	...	19	...	828
1878	...	...	...	17	...	733
1879	...	...	...	15	...	711
1880	}	Scott Act	{	...	...	612
1881				...	...	731
1882				...	...	1,006

In 1882 no attempt was made to enforce the Act because of cases before the courts. It was said to have been better enforced in 1880 and 1881 than it had been since. At Fredericton (population, 6,500), the first place in Canada to

adopt the Act, it appeared that a considerable amount of illicit selling went on. The fines levied under the Act were as follows :—

1882	...	...	...	...	...	...	\$1,000
1883	...	...	...	...	...	...	1,500
1884	...	...	...	...	...	...	750
1886	...	...	...	...	...	...	1,650
1887	...	...	...	...	...	...	900
1888	...	...	...	...	...	...	1,050
1889	...	...	...	...	...	...	1,250
1890	...	...	...	...	...	...	800
1891	...	...	...	...	...	...	700

At Moncton (population, 8,700) the corresponding figures were—

1885	...	...	...	...	...	...	\$ 40
1886	...	...	...	...	...	...	—
1887	...	...	...	...	...	...	950
1888	...	...	...	...	...	...	1,050
1889	...	...	...	...	...	...	2,000
1890	...	...	...	...	...	...	1,800
1891	...	...	...	...	...	...	1,650
1892 (seven months)	...	...	...	...	...	...	1,900

Arrests at Moncton (about two-thirds being for drunkenness)—

1885	...	...	...	...	...	...	335
1886	...	...	...	...	...	...	311
1887	...	...	...	...	...	...	205
1888	...	...	...	...	...	...	306
1889	...	...	...	...	...	...	309
1890	...	...	...	...	...	...	278
1891	...	...	...	...	...	...	263

In New Brunswick (as elsewhere) the evidence before the Royal Commission testified to the prevalence of perjury and “defective memory” among witnesses in liquor cases. The statistics of convictions for drunkenness (*see* p. 394) show a higher number for New Brunswick than for any other province in the Dominion, except British Columbia.

Some further details respecting the Scott Act in New Brunswick will be given later in connection with the general question of the effects of that Act.\*

*Prince Edward Island.*

For twelve years, from 1879 to 1891, prohibition was the law throughout Prince Edward Island. In the latter year, however, the Scott Act was renounced by Charlottetown, where for some months there was free and unrestricted trade in liquor, the Legislature, which on the adoption of the Act throughout the island had repealed the old provincial licence law, refusing to re-enact it. In 1892 a strict police law was enacted, requiring the sale to be carried on in a single room only, open to the street, without blinds or any other obstruction to the view, and without chairs or other furniture, or back door; and no other business except the sale of liquor, oysters, and cigars was to go on in the same room. The law in Charlottetown is, therefore, free trade, subject to police regulation. This arrangement was said to work well, and to have put a stop to the traffic in back places and grocers' shops. The stipendiary magistrate was of opinion that the Scott Act had had no material effect on drunkenness, one way or the other. There had been 364 convictions for breach of the Act during nine and a half years while it was in force in Charlottetown (population, 11,300 in 1891).

The following figures were given of liquor (spirits, wine, and beer) entered for consumption at Charlottetown:—

1887-8	...	...	...	...	33,623	gallons.
1888-9	...	...	.	...	30,357	„
1889-90	...	...	...	...	30,124	„
1½ year to December, 1890	...	...	...	...	43,012	„ (imported
						33,835 gallons.)
„ „ June, 1892	...	...	...	...	43,370	gallons (imported
						40,532 gallons.)

\* Page 396.

A portion of this amount went to the rural districts of the island. Such figures are not conclusive of the amount consumed in any place, as the liquor may be transported after it has paid duty, and can no longer be traced.

At Summerside the evidence of the licensed vendor of liquors (for medicinal purposes, etc.) under the Scott Act threw some light on the manner in which this branch of the law was evaded. "Prescriptions" were given for various amounts, from a bottle up to ten gallons, some practically unlimited, the liquor being taken by instalments, as required. One order, undated, ran:—"Give bearer one bottle of whisky. He pays." Another was for eight bottles of brandy. This witness thought his sales had averaged about \$8,000 per annum. The Mayor of Summerside gave the following return of arrests for drunkenness in that town (population in 1891, 2,900):—

1876	...	...	...	29	1884	...	...	...	22
1877	...	...	...	54	1885	...	...	...	37
1878	...	...	...	60	1886	...	...	...	30
1879	...	...	...	31	1887	...	...	...	30
1880*	...	...	...	16	1888	...	...	...	46
1881	...	...	...	35	1889	...	...	...	43
1882	...	...	...	12	1890-1 (16 months)	...	...	...	51
1883	...	...	...	10					

\* First year of Scott Act.

The two following tables are taken from a Parliamentary paper, published in 1892 (C. 6,670):—

I.—Statement showing the number of cases tried at Summerside for offences against the Scott Act from 1879 (when the Act was first adopted in that town) to 1889; also cases tried for drunkenness since the incorporation of the town (from a return by the town clerk of Summerside):—

Year.	Offences against Canada Temperance Act.			Offences against Bye-laws relating to Drunkenness.		
	Con-victions.	Dismissals.	Total.	Con-victions.	Dismissals.	Total.
1876	} The Act was not in force during these years. }			34	1	35
1877				56	—	56
1878				51	—	51
1879				31	—	31
1880	5	2	7	19	3	22
1881	6	—	6	40	—	40
1882	24	9	33	34	—	34
1883	10	5	15	9	—	9
1884	24	6	30	23	—	23
1885	18	7	25	17	—	17
1886	10	7	17	36	—	36
1887	19	1	20	25	—	25
1888	15	—	15	23	—	23
1889	16	15	31	54	—	54

II.—A similar statement respecting Charlottetown (from a return by the clerk of the City Police Court, Charlottetown) :—

Year.	Offences against Canada Temperance Act.			Offences against Bye-laws relating to Drunkenness.		
	Con-victions.	Dismissals.	Total.	Con-victions.	Dismissals.	Total.
1877	} The Act was not in force during these years. }			729	8	737
1878				357	13	370
1879				231	4	235
1880				256	2	250
1881	19	3	22	193	4	197
1882	16	16	32	218	—	218
1883	7	2	9	250	—	250
1884	48	41	89	229	1	230
1885	35	26	61	284	1	285
1886	34	20	54	299	1	300
1887	60	101	161	213	11	224
1888	79	111	190	262	—	262
1889	25	47	72	299	3	302

*Quebec.*

In the province of Quebec the Scott Act was at different times adopted in six counties ; it is now in force in three only, Brome, Chicoutimi, and Richmond. The Prime Minister of the province, in a report dated 1889, remarked that the Act did not seem to have produced any influence on the amount of crime in the counties in which it had been adopted, and that in Chicoutimi it was said to be a source of disorder, in so far that it led to the illicit sale of liquors. The report continues : "In the province of Quebec, the most efficient prevention of intemperance and its consequent evils is, as regards the Roman Catholic population, and especially that of French origin, the moral influence and vigilant action of the clergy. This explains why the introduction of the Canada Temperance Act has been almost exclusively confined to the English and Protestant country."\*

While the Scott Act has had only a restricted operation in this province, local prohibition has been adopted by bye-law (under the Dunkin Act) in many of the smaller municipalities, and is now in force in about 250 of such municipalities out of a total number of about 900.† Moreover, in 121 municipalities, which have not passed a prohibitory bye-law, no licence is in fact issued. The Roman Catholic clergy are opposed to a general prohibitory law. They, however, appear to favour the passing of these bye-laws, which, it is said, are through their influence well enforced. It is common for the priest to encourage young persons at their confirmation to take a pledge of abstinence till they come of age.

\* Parliamentary Paper C. 6,670, 1892.

† For a summary of the liquor laws of the province of Quebec, see p. 403. The figures in the text were supplied to me by the secretary of the Dominion Alliance.

*Ontario.*

In Ontario, a remarkable revulsion of feeling has been manifested with regard to the Scott Act. In 1879 it was adopted by one county, and in 1881 by another; in 1884 and 1885 a wave of prohibitory sentiment passed over the province, and votes in favour of the Act were passed by these two counties and by twenty-three others—twenty-five in all out of the forty-one counties in the province. By May, 1889, the Act had been abandoned in all of them, as well as in two cities, Guelph and St. Thomas, which had adopted it. The four years, 1885—8, may be termed the Scott Act period, the Act being in force during those years, respectively, in nine, twenty-five, twenty-five, and seventeen counties.

Prior to the adoption of the Scott Act, the Legislature of Ontario had passed a licence law, which with subsequent amendments is still in force, and of which a summary is given on p. 404. A feature of this law is the fact that it is enforced through provincial, and not municipal, machinery. Licences had previously been granted by the municipal authorities, and to their officers had been entrusted the duty of enforcing the law. The result of this system was that those interested in the liquor trade were brought to the front in local politics, and obtained such an undue share of power and influence as enabled them to control, in a great measure, the licensing authority and the executive officers of the law. The evils of such a system are seriously felt at the present time in the province of Quebec, and especially at Montreal. The new arrangement in Ontario, providing for the appointment by the Provincial Government in each electoral district of three commissioners to grant licences, and an inspector to enforce the law, worked well on the whole; and it is claimed that the efficient administration of the law, which resulted from its separation from the sphere of local politics, was steadily producing an improvement in the drinking habits of the



people, when the passing of the Scott Act and the subsequent action of the prohibitionists in regard to it led to unforeseen changes.

When the Scott Act was passed, the Provincial Government of Ontario determined that, as the Act was a Dominion Act, and contained provisions for its own enforcement, it was the affair of the Dominion, and not of the provincial authority, to see to its administration. Accordingly, the commissioners and inspectors ceased to be appointed under the provincial licence law in places which adopted prohibition, and for a time the Act was in general very ineffectively enforced. Complaints were raised by the prohibitionists ; and the matter was pressed by them on the Provincial Government, who then consented to take steps for enforcing the Act. The commissioners and inspectors under the licence law were re-appointed for the purpose of carrying out the prohibitory law, the prohibitionists being even invited to nominate persons to fill these posts, and their nominees being appointed.

Various causes are assigned for the entire break-down of the Act, and its abandonment by so many counties at the earliest possible moment after they had adopted it. One cause which is alleged is the injudicious zeal of the prohibitionists, and the opposition thence arising. An instance given me was that of the county of Halton, which was the first in this province to adopt the Scott Act, and was regarded as the stronghold of prohibition, and the model for all other counties to imitate. The commissioners, the inspectors, and even the magistrate who tried the cases (without appeal), were nominated by the prohibitionist party. The result was that such a revulsion sprang up in popular sentiment that it became impossible to obtain convictions. The inspector might walk into a place where liquor was being served and drunk before his eyes ; when the case came before the magistrate, witnesses would swear positively that no liquor was sold. Perjury was naked and unashamed. The inspector would be hooted as he

entered and left the court, and the prohibitionists themselves would not stand up beside him or openly support the law.

An examination of the returns of voting on the adoption of the Scott Act shows that in some cases the total vote cast was a small one, much smaller than the vote at ordinary elections. It is repeatedly said also that many of those who voted for the Act were not teetotallers, did not intend to become so, and had no sentiment in favour of prohibition; but acted in obedience to external influences—their pastors, wives, or friends—and with no very definite idea of what they were voting for. I have no means of judging to what extent this may have been the case; certainly there is a very common belief in Ontario that many votes of this class were given.\*

A prohibitionist, whom I asked how he accounted for the failure of the Act, gave me in substance the following explanation, which shows how intimately the working of a law of this kind becomes involved in the operations of political parties. The Liberal party, he said, having passed the licence law in Ontario, and having been in power for the past twenty years, those interested in the liquor trade have gravitated towards the Liberals as the dominant power, which it was better to conciliate than oppose; and thus, contrary to the general experience elsewhere, the licensed victuallers are, for the most part, members of the Liberal party. They, the Licence Commissioners, and the inspectors, had a good understanding, and agreed together in the fair administration of the law. When, by a wave of enthusiasm, the Scott Act was carried in many counties in the province, and it became the duty of the inspectors to enforce prohibition, a great deal of friction arose.

\* I have repeatedly been informed that people voted for the Act who never intended to observe it; and a case was related to me of several such voters in Simcoe county who, shortly after they had helped to carry the Act, were discovered drinking in an illicit rum shop. People, I was told, were induced to vote by being assured that the Act would not affect *them*.

Either the inspector tried to do his duty, which was a difficult matter, the liquor-seller, formerly his friend, becoming his bitter opponent ; or he let things go on much as before, in which case the prohibitionists were in arms against him. The Liberal party comprised three-fourths of the prohibitionists in the province, as well as most of the liquor-sellers. Thus a feud sprang up in the party over the Scott Act and its execution. The danger to the party's predominance thence arising, the irritation of the traders at the injury done to their interests, and the disgust of the prohibitionists at the failure of the high hopes they had cherished of the benefits to ensue from the Act, all combined to bring about a strong reaction against it, and this resulted in its abandonment throughout the province.

It has already been stated that, when the Canadian provinces were confederated, certain legislative powers being conferred on the Federal Parliament, a reservation was made for all then existing provincial laws, and that among these laws was one (generally known as the Dunkin Act) enabling municipalities in Ontario and Quebec to pass bye-laws (subject to the approval of the electors) prohibiting the sale of intoxicating liquor. A clause containing this law was subsequently included in the Licensing Act of Ontario, but after the passing of the Scott Act it was repealed. When the Scott Act itself fell into disuse in Ontario, a movement was started by the prohibitionists in favour of re-establishing the bye-law clause. This proposal involved a constitutional question, whether the province, which was specifically vested with the power of *regulating* the liquor traffic, could legislate afresh for its *suppression*. This point has not yet been decided by the final court ; but the Provincial Legislature undertook to pass the clause, laying special stress on the fact that it was merely the re-enactment of a law existing previously to confederation, and included in the general saving for pre-existing laws. It was also argued that if the Provincial Legislature could not legislate for prohibition it could not repeal a prohibitory law

already existing, and that therefore the repeal of the old bye-law clause was *ultra vires*.

From September, 1890, to May, 1892, the prohibitory bye-law had been adopted by popular vote in 24 municipalities in Ontario, out of 35 municipalities in which a vote was taken. In all other parts of the province the licence law is in operation. In Toronto (pop. 181,200) 150 tavern licences and 50 shop licences are issued; the city appears to be orderly, and the Sunday closing and other provisions of the law are said to be well observed.\*

The following table, containing a complete return of commitments for drunkenness in Ontario during thirteen years, is taken from the Provincial Treasurer's annual report on the working of the Licence Acts. It shows to what extent the record was affected in the different counties which adopted the Scott Act. It will be seen that the adoption of the Act was generally, but not always, followed by a diminution of commitments; and, in the first year of the Scott Act period, there was a sensible falling off in the sum total for the whole province; but in the last two years of that period the figures had begun to grow again. Allowance being made for increase of population, the figures for 1891, under licence, were, on the whole, more favourable than those of any year while the Act was in force.

If the figures for the 25 Scott Act counties are taken separately, and the years 1886 and 1887 (when the Act was in force in all of them) are compared with 1890 and 1891, the yearly average number of commitments for the first two years comes out at 1,103, and for the last two years at 1,301, a difference of 200 in favour of the Scott Act period. But if 1890 is omitted, and 1891 taken separately, the figures for that

\* A prohibitionist in the State of Missouri, who had recently paid a visit to Toronto, spoke to me with enthusiasm of the condition of that place, where he had been obliged to go on foot to church (irrespective of weather and distance), and had found great difficulty in obtaining medicine for his wife on Sunday.

Statement showing the number of Prisoners committed for Drunkenness to the County Gaols in ONTARIO during each year from 1879 to 1891. *The figures in italics indicate commitments in years when the Scott Act was in force.*

COUNTY OR DISTRICT.	1879.	1880.	1881.	1882.	1883.	1884.	1885.	1886.	1887.	1888.	1889.	1890.	1891.
Coma.....	24	19	17	24	21	15	12	1	85	128	64	69	77
ant (including Brantford) .....	62	81	64	80	75	58	28	<i>91*</i>	<i>112</i>	<i>147</i>	218	182	112
ice .....	8	2	14	4	10	3	0	2	6	22	8	6	7
rleton (including Ottawa) ...	272	222	269	265	261	314	205	<i>280*</i>	<i>286</i>	<i>297</i>	296	336	204
fferin .....	—	—	1	0	0	1	3	3	3	1	4	2	1
gin (including St. Thomas) ...	54	53	45	61	92	82	57	<i>30*</i>	<i>25</i>	29	23	20	32
sex .....	59	71	51	91	121	103	47	31	45	46	47	35	57
ontenac (including Kingston) ..	126	102	53	25	46	75	74	<i>58*</i>	<i>108</i>	<i>107</i>	139	129	125
ey .....	35	40	23	23	19	28	36	20	21	29	27	17	13
ldimand .....	10	15	6	4	7	7	18	15	17	24	25	15	22
lton .....	1	6	5	4	7	6	9	<i>13</i>	5	19	13	9	9
astings (including Belleville) ...	34	16	35	67	57	50	45	34	51	67	39	49	34
aron .....	15	22	18	8	5	4	3	4	0	4	2	5	5
ent .....	33	24	13	28	23	26	18	<i>14</i>	7	9	61	71	47
mbton .....	115	126	77	77	75	105	130	72	<i>38</i>	<i>64</i>	99	108	95
mark .....	8	7	10	4	9	7	6	4	9	4	2	5	5
eds and Grenville .....	71	72	56	67	19	135	80	<i>36</i>	<i>24</i>	<i>31</i>	52	58	44
nnox and Addington .....	9	11	14	11	18	20	6	3	8	7	4	22	23
ncoln (includ. St. Catherine's) ..	51	44	55	41	65	39	29	<i>21*</i>	<i>21</i>	<i>28</i>	33	24	12
ddlesex (including London) ...	193	235	210	242	269	445	277	<i>338*</i>	<i>404</i>	<i>408</i>	540	332	213
uskoka and Parry Sound .....	6	8	3	13	8	16	84	39	8	6	45	28	19
issing .....	1	1	0	2	10	17	6	0	13	32	81	97	96
orfolk .....	15	26	14	18	18	17	4	6	5	3	17	3	10
orthumberland and Durham ...	24	25	20	10	21	26	26	<i>15</i>	6	12	28	38	22
ntario .....	11	6	2	5	10	1	4	0	0	0	5	2	0
trford .....	55	54	47	32	28	51	<i>21</i>	<i>28</i>	0	<i>64</i>	55	51	34
el .....	27	14	9	14	4	10	24	10	8	24	28	30	17
orth (including Stratford) .....	35	39	26	20	37	14	17	15	12	9	16	14	4
terborough .....	5	27	27	38	71	30	27	<i>13</i>	<i>11</i>	26	20	45	24
escott and Russell .....	0	1	1	2	2	0	3	1	0	0	2	6	5
ince Edward .....	46	75	60	76	70	46	41	54	20	45	38	33	19
enfrew .....	5	10	10	24	17	27	<i>11</i>	2	2	0	4	1	0
mcroe .....	82	107	62	56	87	99	<i>31</i>	<i>35</i>	16	28	46	34	34
ormont, Dundas, & Glengarry ..	17	3	4	7	8	9	3	1	4	7	29	25	14
aunder Bay .....	81	83	126	88	296	705	153	119	148	148	135	125	120
ctoria and Haliburton .....	10	7	8	14	7	20	13	1	2	4	4	7	1
aterloo .....	28	11	11	10	14	11	7	4	8	12	20	17	13
elland .....	188	186	145	50	34	23	33	40	32	12	21	16	7
ellington (including Guelph) ...	23	40	36	51	93	49	<i>32</i>	<i>12</i>	<i>22</i>	<i>21</i>	10	10	4
entworth (including Hamilton) ..	382	447	339	396	376	295	368	385	373	429	401	418	251
ork (including Toronto) .....	1,359	1,463	1,342	1,445	1,485	1,661	1,707	1,705	2,166	2,098	2,096	2,085	1,783
Total .....	3,581	3,795	3,328	3,497	3,897	4,650	3,626	3,555	4,130	4,451	4,797	4,573	3,614
Scott Act period.													

\* The returns include the city as well as the county; the Scott Act was adopted in the county only, exclusive of the city. The city of Brantford was first incorporated in 1886, a fact which may account for the increase of convictions concurrently with the adoption of the Act.

year in the same counties are 1,072, showing an absolute improvement (even without allowance for increase of population) as against the prohibitory period. On the other hand, it should be noted that in the above figures are included the returns for the cities of Ottawa, Kingston, and London, which did not adopt prohibition, and in which a considerable though unascertained improvement may probably have taken place. This fact would, no doubt, render untrustworthy any positive inference unfavourable to the Act based on the foregoing comparison. On the whole, however, no decisive conclusion in favour of the superiority of local prohibition to other methods in checking drunkenness during any continuous period seems to be warranted by the table, especially if the increased number of commitments in the last two years of the Scott Act period are taken into account, together with the progressive improvement which has more recently taken place under licence.

### *Manitoba.*

In Manitoba the liquor trade is under a provincial licence law passed in 1889 (see p. 407). Every municipality is empowered to pass a prohibitory bye-law, but in November, 1889, only one municipality had done so.\* An Act of 1892 provided for the taking of a vote throughout the province on the question of prohibition; in pursuance of this Act a vote was taken and a majority in favour of prohibition was declared. It remains to be seen what action will be taken by the Provincial Legislature in furtherance of the decision thus expressed by the electors. In the event of a general prohibitory law being enacted for the province a question may arise in the Law Courts as to the constitutionality of such a law.†

Two counties in Manitoba have adopted prohibition under the Scott Act.

\* Parliamentary Paper C. 6,670, 1892.

† In March, 1893, the Legislature resolved to petition the Government at Ottawa for leave to pass a prohibitory law.

*North-West Territories.*

Until quite recently, the North-West Territories have been subject to a general prohibitory law passed by the Dominion Government, with power, however, to the Lieutenant-Governor to make exceptions at his discretion. In 1892 a licence law with local option clauses was enacted, of the effect of which it is as yet too soon to judge. Prohibitionists complain that the prohibitory law, which (they say) had worked most efficiently and had practically kept the evils of liquor out of the territories, was latterly, by a too free exercise of the dispensing power on the part of the Governor, suffered to lose much of its effectiveness. They allege that this power was intended to be exercised only to facilitate the supply of alcohol and wine for medical, scientific, and sacramental purposes, but that, as this limitation was not expressed in the Act, there was no way by which the Lieutenant-Governor's action could be checked, and thus liquor was at last sold openly and unrestrictedly for drink.\*

The general condition of the several provinces in the Dominion of Canada, in regard to the consumption of alcoholic liquors, may be seen in the following table, which shows the consumption per head of the population during a series of years. The figures do not appear to supply any evidence that much benefit was produced by the operation of the Scott Act. The year 1886 does, indeed, show a diminution in the liquor consumed in Ontario, but the two following years, during which the Act was in force, show a successive rise; while in 1890, two years after the abandonment of the Act, the consumption appears to have been less than it had been for nine years previously. Taking the whole series of years, there

\* "At the present day the Prohibition Act orders that even the white man of the North-West Territories must be temperate, thereby causing whisky to be dear and bad, but plentiful withal." (Warburton Pike, "The Barren Ground of Northern Canada," p. 3.)

has been a decrease of whisky-drinking in Canada, and a steady but not very large increase in the consumption of beer. Compared with other countries, the whole consumption is decidedly low.

This table, and others following, were in part supplied to me by Mr. George Johnson, the official statistician to the Canadian Government at Ottawa, and in part are either based on figures supplied by him, or extracted from the Statistical Year Book which is published by the Department of Agriculture.

Annual Consumption per head of the undermentioned Articles, paying Excise or Customs Duties, in the respective Provinces and in the Dominion from 1879 to 1891.

YEARS.	Ontario.				Quebec.				New Brunswick.				Nova Scotia.				
	Spirits.		Beer.	Wine.	Total.	Spirits.		Beer.	Wine.	Total.	Spirits.		Beer.	Wine.	Total.		
	Galls.	Galls.	Gall.	Gall.	Galls.	Galls.	Gall.	Galls.	Galls.	Galls.	Gall.	Galls.	Galls.	Gall.	Galls.		
1879	1'404	3'281	'030	4'71	1'072	1'660	'230	2'962	'756	'646	'059	1'46	'516	'767	'058	1'34	
1880	'708	3'478	'020	4'20	'869	1'598	'183	2'65	'590	'486	'025	1'10	'430	'519	'031	'98	
1881	'936	3'548	'025	4'50	1'150	1'723	'236	3'10	'753	'456	'044	1'25	'527	'603	'049	1'18	
1882	1'011	4'250	'029	5'29	1'248	2'004	'276	3'52	'883	'649	'049	1'58	'539	'690	'062	1'30	
1883	1'075	4'508	'037	5'62	1'380	1'997	'304	3'65	'932	'790	'058	1'78	'579	'629	'063	1'27	
1884	'987	4'519	'030	5'53	1'271	2'067	'265	3'60	'815	'805	'056	1'67	'573	'782	'061	1'41	
1885	1'334	3'990	'028	5'35	1'211	1'952	'243	3'40	'753	'859	'044	1'65	'536	'772	'054	1'36	
1886	'654	4'220	'020	4'89	'920	2'207	'230	3'35	'560	'973	'044	1'57	'463	'867	'060	1'33	
1887	'689	4'555	'020	5'24	1'027	2'578	'225	3'83	'578	'912	'032	1'52	'441	'634	'032	1'10	
1888	'580	4'856	'022	5'45	'927	2'609	'235	3'77	'515	'927	'036	1'47	'363	'897	'038	1'29	
1889	'732	4'852	'025	5'60	1'080	2'544	'236	3'86	'605	'948	'040	1'59	'456	1'127	'047	1'63	
1890	—	—	—	4'78	—	—	—	3'61	—	—	—	1'70	—	—	—	1'50	
Scott Act period in Ontario.																	
YEARS.	P. E. Island.				Manitoba and N. W. Territories.				British Columbia.				Dominion.				
	Spirits.		Beer.	Wine.	Total.	Spirits.		Beer.	Wine.	Total.	Spirits.		Beer.	Wine.	Total.		
	Galls.	Galls.	Gall.	Gall.	Galls.	Galls.	Gall.	Galls.	Galls.	Galls.	Gall.	Galls.	Galls.	Gall.	Galls.		
1879	'609	'516	'036	1'16	'814	1'851	'072	2'73	1'819	3'349	'519	5'68	1'131	2'209	'104	3'444	
1880	'425	'551	'014	1'00	'813	2'479	'053	3'34	1'010	3'187	'410	4'60	'715	2'248	'077	3'040	
1881	'530	'381	'019	'93	'385	1'156	'010	1'55	1'038	2'699	'417	4'15	'922	2'293	'099	3'314	
1882	'425	'269	'013	'70	'767	2'150	'072	2'99	1'330	3'211	'667	5'20	1'009	2'747	'120	3'876	
1883	'410	'174	'030	'61	'840	2'818	'094	3'75	1'526	4'080	'803	6'40	1'090	2'882	'135	4'107	
1884	'337	'201	'009	'55	'677	2'208	'043	2'92	1'459	4'863	'860	7'18	'998	2'924	'117	4'039	
1885	'412	'296	'009	'71	'592	1'605	'043	2'24	1'750	5'192	'980	7'92	1'126	2'639	'109	3'874	
1886	'551	'330	'014	'86	'450	1'722	'040	2'25	1'633	5'471	'890	7'99	'711	2'839	'110	3'660	
1887	'241	'406	'021	'66	'456	1'826	'033	2'31	1'563	3'858	'878	8'39	'746	3'084	'095	3'925	
1888	'238	'328	'009	'57	'275	1'679	'034	1'98	1'600	6'744	'395	8'73	'645	3'247	'094	3'986	
1889	'197	'523	'003	'72	'609	3'080	'062	3'75	1'956	8'122	'526	10'60	'776	3'263	'097	4'136	
1890	—	—	—	'94	—	—	—	2'48	—	—	—	6'56	—	'883	3'360	'104	4'347
1891	—	—	—	—	—	—	—	—	—	—	—	—	—	'743	3'790	'111	4'644



The following analysis has been made by Mr. Johnson for the purpose of testing the effect of the Scott Act upon crime. The Act was in force from 1881 to 1889 in 36 places; from 1885 to 1889 it was in force in 54 places; the chief period of its enforcement being the years 1886—88.

During the four years 1885—88 the convictions for crime throughout Canada were 139,845, those for drunkenness being 46,903. During the four years 1881—84 the total convictions were 123,454, for drunkenness 30,863. During the three years 1889—91 the figures were, respectively, 114,386 and 40,893.

The averages per annum for the three periods are :—

	1881-4.	1885-8.	1889-91.
Total convictions... ..	30,805	34,961	38,128
Drunkenness ... ..	10,436	11,726	13,628
Convictions for drunkenness per } million inhabitants	2,371	2,561	2,844
Number of places in which Scott } Act was in operation	36	54	33
Mean of population ... ..	4,400,900	4,578,745	4,756,500

In the following table, a comparison, by provinces, is made between the years 1881 and 1891, as regards convictions for several classes of crime.

#### ONTARIO.

Offences against the person	1 in 184,400 of the population in 1881		
(Increase) ... ..	1 in 119,400	„	„ 1891
Offences against property..	1 in 31,250	„	„ 1881
(Increase) ... ..	1 in 29,270	„	„ 1891
Other offences (including } breaches of municipal } laws and other minor } offences) ... ..	1 in 5,388	„	„ 1881
(Decrease) ... ..	1 in 10,372	„	„ 1891
Drunkenness ... ..	1 in 367	„	„ 1881
(Decrease) ... ..	1 in 425	„	„ 1891

## QUEBEC.

Offences against the person	1 in 103,000 of the population in 1881		
(Increase) ... ..	1 in 23,387	„	„ 1891
Offences against property..	1 in 33,360	„	„ 1881
(Decrease)... ..	1 in 61,874	„	„ 1891
Other offences... ..	1 in 13,457	„	„ 1881
(Increase)... ..	1 in 11,054	„	„ 1891
Drunkenness ... ..	1 in 937	„	„ 1881
(Increase)... ..	1 in 354	„	„ 1891

In Nova Scotia offences against the person have increased, offences against property have increased; "other offences" have decreased, convictions for drunkenness have decreased, the figures being 1 in 598 for 1881, and 1 for 709 in 1891.

In New Brunswick offences against the person have increased; the more serious offences against property have decreased, while the others have increased; "other offences" have increased; the convictions for drunkenness have increased from 1 in 284 in 1881, to 1 in 197 in 1891.

In the other provinces the convictions for drunkenness stand as follows :—

	1881.	1891.	Increase or Decrease.
Prince Edward Island...	1 in 417	1 in 351	Increase.
Manitoba ... ..	1 in 125	1 in 294	Decrease.
British Columbia... ..	1 in 219	1 in 150	Increase.
North-West Territories.	1 in 6,272	1 in 1,207	Increase.

Thus, offences against the person have increased in Ontario and Nova Scotia, and have decreased in Quebec and New Brunswick. Convictions for drunkenness have decreased in Ontario, Nova Scotia, and Manitoba, and have increased in all the other provinces.

Convictions for crimes have increased faster than population in Ontario, Quebec, New Brunswick, and British Columbia, and not so fast as population in Nova Scotia, Prince Edward Island, Manitoba, and the North-West Territories.

The following table shows the general result, by classes of

crime, for the whole Dominion, of a comparison between 1881 and 1891 :—

## CRIMINAL CONVICTIONS.

Offences.	Number per Million Inhabitants.	
	1881.	1891.
Murder, Attempts at, and Manslaughter ...	5'08	3'93
Rape and other Offences against Females ...	10'60	22'14
Other Offences against the Person ...	990'79	964'47
Robbery with Violence, Burglary, House } and Shop Breaking ... .. }	33'32	58'56
Horse, Cattle, and Sheep Stealing ... ..	14'15	9'73
Other Offences against Property ... ..	585'46	684'10
Other Felonies and Misdemeanours ... ..	66'60	48'17
Breaches of Municipal Bye-laws and other } Minor Offences ... .. }	3,000'00	3,261'00
Drunkenness ... ..	2,214'00	2,690'00

The following table takes the whole number of persons convicted in Canada of indictable offences during the years 1885—91, and divides them into three classes :—*Moderate drinkers*, *immoderate drinkers*, and *teetotallers*. It also classifies the offences under different heads. The table shows, in the first place, the total number of offenders of each class convicted during each of the above-mentioned years ; secondly, it makes a comparison between the first four and the last three years, and shows, as regard each period and each class, the yearly average number of offenders, and their percentage out of the whole number of cases under each head.

The figures are derived from information officially obtained respecting prisoners on their conviction. In the absence of information on the subject in the census returns, it is impossible to show, with any approach to precision, how the teetotallers compare with the rest of the population as regards relative tendency to crime in general. The table is, however, of some

## INDICTABLE OFFENCES IN CANADA.

	1885.	1886.	1887.	1888.	1889.	1890.	1891.	4 Yrs., 1885-88.		3 Yrs., 1889-91.		Per Cent.	
								Total.	Yearly Avge.	Total.	Yearly Avge.	1885-88.	1889-91.
<i>Offences against the Person</i>													
Moderate Drinkers ..	841	737	742	822	997	881	907	3,142	786	2,785	928	—	—
Immoderate Drinkers ..	363	337	362	321	392	312	354	1,383	346	1,058	353	44'00	38'04
Teetotallers.....	411	324	330	410	478	450	506	1,475	369	1,434	478	47'00	51'50
Total.....	67	76	50	91	127	119	47	284	71	293	98	9'00	10'46
<i>Offences against Property with Violence</i>													
Moderate Drinkers ..	222	255	208	225	283	276	283	910	227	842	281	—	—
Immoderate Drinkers ..	112	121	106	105	124	104	162	444	111	390	130	50'00	46'34
Teetotallers.....	74	94	69	84	118	124	110	321	80	352	117	35'00	41'63
Total.....	36	40	33	36	41	48	11	145	36	100	33	15'90	12'00
<i>Offences against Property without Violence..</i>													
Moderate Drinkers ..	2,239	2,070	1,984	2,297	2,640	2,432	2,498	8,590	2,148	7,570	2,523	—	—
Immoderate Drinkers ..	1,243	1,089	969	1,067	1,182	1,030	1,414	4,368	1,092	3,646	1,208	50'84	47'90
Teetotallers.....	577	644	680	833	1,027	989	990	2,743	686	3,006	1,002	31'56	39'70
Total.....	419	337	326	397	431	413	94	1,479	369	938	313	17'60	12'40
<i>Malicious Offences against Property</i>													
Moderate Drinkers ..	44	47	53	73	41	59	50	217	54	150	50	—	—
Immoderate Drinkers ..	23	23	35	40	21	17	28	121	30	66	22	56'00	44'00
Teetotallers.....	13	16	12	16	15	17	12	57	14	44	14	25'48	28'00
Total.....	8	8	6	17	5	25	10	39	10	40	14	18'52	28'00
<i>Forgery and Offences against the Currency..</i>													
Moderate Drinkers ..	48	43	43	45	41	46	36	179	45	123	41	—	—
Immoderate Drinkers ..	33	23	27	31	20	22	27	114	28	69	23	62'22	56'10
Teetotallers.....	8	13	11	12	13	21	9	44	11	43	14	26'67	34'10
Total.....	7	7	5	2	8	3	—	21	5	11	4	11'11	9'80
<i>Other Offences</i>													
Moderate Drinkers ..	403	357	223	285	206	240	190	1,268	317	636	212	—	—
Immoderate Drinkers ..	167	232	116	164	93	110	103	679	170	306	102	53'63	48'11
Teetotallers.....	145	104	76	89	72	80	79	414	103	231	77	32'47	36'32
Total.....	91	21	31	32	41	50	8	175	44	99	33	13'90	15'57

interest in connection with the question of the amount of crime which is attributable to drink.

In the perusal of the return it should be borne in mind that the proportion of total abstainers to the whole population is probably considerably greater in Canada than in most countries ; also that the return deals only with indictable offences, not including those minor offences of disorderly conduct, etc., which are to a great extent directly the result of intoxication.

Since the appointment of the Royal Commission on the Liquor Traffic, an attempt has been made to test the results of local prohibition under the Scott Act by statistical comparison between two considerable areas of land, throughout one of which the Act was in force, while the other was under a licence law. The province of New Brunswick was chosen for this purpose, from the fact that the Act was nowhere else in operation over a continuous area large enough to enable such a comparison to be made. The particulars which follow were kindly furnished to me by Mr. George Johnson. If no great importance ought to be attached to them in a positive sense, they at least lend no support to the contention sometimes urged, that a remarkable increase of material prosperity is to be expected as the direct result of prohibition. The criminal record, however, is markedly favourable to the prohibitive area.

In the province of New Brunswick there is a group of nine counties (Albert, Carleton, Charlotte, King's, Northumberland, Queen's, Sunbury, Westmoreland, York) which have been under the Scott Act for more than ten years. They are all connected geographically, and contain 61 per cent. of the whole population of the province. They contain several cities and towns of importance, as Fredericton, Marysville, Woodstock, St. Stephen, Milltown, Chatham, Moncton. They are believed to be in every respect a group fairly representative of the whole country, in industries, religion, race, and general conditions.

In the ten years 1882—91 there were 22,841 convictions in New Brunswick, viz. :—

Murders	...	...	...	...	...	11
Rape and other offences against females	...	...	...	...	...	26
Other offences against the person	...	...	...	...	...	3,241
Robbery, with violence, burglary, etc.	...	...	...	...	...	67
Horse, cattle, and sheep stealing...	...	...	...	...	...	2
Other offences against property	...	...	...	...	...	858
Other felonies and misdemeanours	...	...	...	...	...	45
Breaches of municipal law and minor offences	...	...	...	...	...	4,993
Drunkenness	...	...	...	...	...	13,598
						<hr/> 22,841

In the whole Dominion there were 348,460 convictions. Taking the mean of population at 4,578,810, we have the average of 7,800 convictions per annum for every million inhabitants of Canada. In New Brunswick the average is 7,112 per million, about 9 per cent. less than the general average of the Dominion.

Dividing the province according to Scott Act counties and non-Scott Act counties,\* there were 8,738 convictions in the former (38·4 per cent.), and 14,102 in the latter (61·6 per cent.); *i.e.*, 61 per cent. of the population had 38½ per cent. of the criminal convictions, and 39 per cent. of the population had 61½ per cent. of the convictions.

As respects population, the nine counties show a decrease of 4,869; the others show an increase of 4,899.

			1881.	1891.
Total population	...	...	321,233	321,263
Scott Act counties	...	..	201,291	196,422
Other counties	...	...	119,942	124,841

During the ten years the Scott Act counties retrograded in respect of their population between 10 and 25 years of age by 1·8 per cent., and increased with respect to population between 25 and 45 years by 4·3 per cent.; while the

\* The non-Scott Act counties are Gloucester, Kent, Restigouche, St. John city, St. John county, Victoria.

The following Table is intended to Show, by Provinces, the Industrial Development of Canada between 1881 and 1891. The table is founded on the published Returns of the Census of 1891 (Bulletin No. 10, issued June, 1892). It relates only to "Industrial" Establishments, and does not include Mining:—

	Percentage by Provinces.												
	Total Numbers.												
	Ontario.		Quebec.		Nova Scotia.		New Brunswick.		Other Provinces.				
	1881.	1891.	1881.	1891.	1881.	1891.	1881.	1891.	1881.	1891.	1881.	1891.	
Number of Establishments .....	49,923	75,768	46.0	42.3	31.8	30.5	10.9	13.7	6.2	7.1	5.1	6.4	
Capital Invested .....	\$165,302,623	\$353,836,817	48.9	49.9	35.8	33.0	6.16	5.37	5.1	4.7	4.1	7.1	
Number of Employées.....	254,935	367,865	46.4	45.0	33.6	31.7	8.0	9.3	7.8	7.2	4.2	6.8	
Wages Paid .....	\$59,429,000	\$99,762,440	51.5	49.3	30.8	30.7	6.9	6.9	6.5	5.9	—	—	
Cost of Raw Material .....	\$179,918,593	\$255,983,219	50.6	50.0	34.7	33.5	5.5	6.1	6.1	4.8	—	—	
Value of Products .....	\$309,676,068	\$475,445,705	51.0	50.5	33.7	32.2	6.0	6.3	5.9	4.9	—	—	
Value of Products after deduc- tion of cost of Raw Material }	\$129,757,475	\$219,462,486	51.5	50.9	32.4	30.6	6.6	6.6	5.7	5.1	3.8	6.8	
Workman's Average Earnings..	—	—	\$258	297	213	262	201	203	194	223	—	—	

non-Scott Act counties increased between 10 and 25 years by 0.5 per cent., and between 25 and 45 years by 5.4 per cent. There was, therefore, a larger movement outward from the Scott Act counties, than from the others, of persons at the working-age period of life. Taking the Dominion through, the increase of population between the ages of 10 and 45 is 70 per cent. of the whole increase of the population between 1881 and 1891.

In the Scott Act counties.				In the non-Scott Act counties.			
Birth rate 1881	...	...	29.4	Birth rate 1881	...	...	32.1
„ 1891	...	...	26.1	„ 1891	...	...	29.8
Death rate 1881	...	...	14.1	Death rate 1881	...	...	16.4
„ 1891	...	...	13.0	„ 1891	...	...	14.0

Tested by manufacturing development, the counties show an increase as follows\* :—

In capital	{	Nine Scott Act counties, increase per head					...	\$24.15
		Other counties					...	27.56
In employées	{	Nine Scott Act counties, increase per 1,000					...	18.0
		Other counties					...	24.4
In wages	{	Nine Scott Act counties, increase per head of population					...	5.28
		Other counties					...	8.27
In products	{	Nine Scott Act counties, increase per head					...	11.84
		Other counties					...	22.80

#### SUMMARY OF PROVINCIAL LIQUOR LAWS.

*Nova Scotia.*—Statutes of 1886, c. 3. The Liquor Licence Act, 1886 (as amended by subsequent Acts).

The Council of each incorporated city, town, or municipality is required to nominate a chief inspector, and if necessary one or more additional inspectors, each of whom is to be a member in good standing of some recognised temperance organisation within the municipality or province. The Lieutenant-Governor in Council may confirm or veto the nomination, and the inspector holds office during good behaviour (he can only be removed by a majority vote at a special meeting of the Council, subject to the approval of the Lieutenant-Governor in Council). (s. 4.) In the city of Halifax

\* With respect to industrial development in all the provinces, see table on p. 399.



the appointment is annual. Three kinds of licences are given :— hotel, shop, and wholesale.

A hotel licence authorises sale only to *bonâ fide* guests in the hotel for consumption at meals, or (on week days) in their rooms. A shop licence authorises sale in quantities not less than one pint nor more than two gallons, for *off*-consumption (s. 5). A room in which liquor may be sold under a wholesale or shop licence must not have a door which does not open on the public street (1890, c. 18, s. 12).

Licence duties (s. 6) :—

Hotel licence, \$150.

Shop licence, \$100.

Wholesale licence, \$300.

An application for a licence must be accompanied by a certificate signed by two-thirds of the ratepayers of the polling district (in Halifax city three-fifths for a hotel or shop, and a bare majority for a wholesale licence) (s. 10). Any resident in the polling district may object to the licence being granted, on the ground of the character of the applicant, or of the premises, or of the requirements or quiet of the neighbourhood, or the proximity of a church, hospital, or school.\* The inspector is also required to make a detailed report on each application. The Council may take notice of any matter which, in its opinion, would be an objection to the granting of a licence, although no notice of objection has been given; but in that case the applicant is entitled to have the matter adjourned for a few days. Licences are issued by the chief inspector, in pursuance of a resolution of the Council. The licensee has to find security for compliance with the law, himself in \$500, and two sureties, \$150 each.

The licence is not annually renewed, but is forfeited on a second (or in some cases a third) conviction for the several offences mentioned in the Act (s. 81).

In any municipality in which no licences are issued, the Council is allowed to appoint an agent to sell "such liquors as may be required for medicinal, manufacturing, and other purposes, not inconsistent with the provisions of this Act" (s. 59). Such agents,

\* Since 1890 no new licence can be given for premises within one hundred yards of a school or church.

and druggists, can only sell on a certificate from a doctor or magistrate (1888, c. 4, s. 11).\*

When a person "by excessive drinking of liquor misspends, wastes, or lessens his or her estate, or greatly injures his or her health, or endangers or interrupts the peace and happiness of his or her family," the sale to such person of any liquors may be prohibited (ss. 70, 71).

If any person, when drunk, commits suicide, or comes to his death by any accident caused by intoxication, or commits an assault, or injures any property, any person who supplied him illegally with liquor is liable to an action for damages (ss. 72—74).

All sums received on account of licence duties and fines in each district go to form a licence fund for the district, out of which are paid the salaries of the inspector and the expenses of executing the Act; the residue being applied to the general purposes of the municipality. One of the amending Acts contains a stringent provision requiring the inspector to prosecute whenever a case is notified to him by a ratepayer, and subjecting him to a heavy penalty (and on a second conviction to dismissal) in the event of his refusal, if the ratepayer himself should successfully prosecute the offender on the evidence submitted to the inspector (1890, c. 18, s. 15). Any ratepayer who so notifies a case is to receive one-half of the fine (1891, c. 27, s. 5).

*Statutes of New Brunswick, 1887, c. 4. The Liquor  
Licence Act, 1887.*

In New Brunswick only two kinds of licence are issued: tavern licences, and wholesale licences. The provisions in the Nova Scotia law for putting a stop to the sale of liquor at bars are not adopted; but a tavern must have, in a city or town, six bedrooms, and elsewhere three bedrooms, for travellers, and must provide food. The licence duties are fixed by each municipality, but the duty for a tavern licence must be, in a city or incorporated town, not less than \$50 nor more than \$200, and elsewhere not less than \$25 nor more than \$200.

The petition for a licence must be accompanied by a certificate signed by one-third of the ratepayers in the polling district; and a

\* By a subsequent Act a penalty is enacted against any medical man who improvidently or without good and sufficient reason gives a certificate (1889, c. 17, s. 10).

licence cannot be given if the majority of the ratepayers in a city, incorporated town or parish, petition against it.

The provisions respecting the hearing of objections to, and the granting of, licences, and the appointment of inspectors, etc., are generally similar to the corresponding provisions in the law of Nova Scotia. There is, however, an express limitation on the number of tavern licences to be issued, viz., as regards cities and incorporated towns: one for each 250 of the first 1,000 of the population in each ward, and for each 500 of the remainder; and, as regards parishes not within a city or incorporated town, one for each 400 up to 1,200 of the population, and for each 1,000 of the remainder. Moreover, the Council of any municipality, by bye-law, may prohibit the issue of all tavern licences, or may further limit the number, and may lay down additional conditions and regulations respecting them.

Licensed premises have to be closed from 7 p.m. on Saturday to 6 a.m. on Monday.

*Quebec Licence Law.* Revised Statutes, Title IV., c. 5, s. 12, 13  
(as amended by subsequent Statutes).

An applicant for an inn or restaurant licence must produce a certificate signed by twenty-five electors resident in the parish, township or village, or in the polling district of the town or city, in which the premises are situated. A licence cannot be granted if a majority of the electors in the polling district oppose it.

The licence is granted by the Council of the municipality, except in the cities of Quebec and Montreal, where this power is exercised by the judicial authorities; but a licence may be refused at the discretion of the licensing body.

The provision relating to retail shop licences (for sale in quantities of not less than a pint) are generally similar, but the number of signatures required is only three.

An "inn" must in the country districts contain at least three bedrooms for travellers, and stabling for four horses; and, in a city or town, must contain two bedrooms, and means to supply meals for ten persons; a restaurant must also be furnished to provide meals for ten persons.

The penalties for sales to drunkards, and civil liabilities for the acts of drunken persons, are generally similar to those in force in Nova Scotia and New Brunswick.

The court dealing with a licensee who has transgressed the

law has power in its discretion to revoke his licence, and, in certain cases, the revocation is compulsory.

The Council of every county, city, town, township, parish, or incorporated village, has power by bye-law to prohibit the sale of liquor. The bye-law may, at the discretion of the Council—or, if the bye-law applies to a county, by demand of thirty electors for each municipality in the county—be submitted to the whole body of municipal electors for approval. And thirty electors of any municipality other than a county may take the initiative in submitting the question to a popular vote.

A bye-law may be repealed in the same way as it was adopted.

There is no general early-closing law on Saturdays, but early-closing may be adopted by municipal bye-law. The Sunday-closing law does not extend to guests in hotels ; but the hotel bar must be closed on Sundays.

The licence duties vary according to the value of the premises and their situation in a town or country district, ranging for inns and restaurants from \$800 down to \$90, and for retail liquor shops from \$400 down to \$70.

It is the duty of the collector of provincial revenue to prosecute offenders against the licence law when requested to do so by a municipal corporation. In the case of infractions of a prohibitory bye-law, however, it is the duty of the municipal Council itself to take proceedings. Fines imposed at the suit of the collector are divided between him, the informer, and the provincial revenue. In the case of prosecutions by the collector for breach of a bye-law the municipality also takes a share.

### *Ontario.*

The Liquor Licence Act of Ontario (revised Statutes, 1887, c. 194), as amended by Acts of 1888, 1889, 1890 and 1892, provides for the annual appointment by the Lieutenant-Governor of three Licence Commissioners for each licence district, whose duty it is to regulate the number of licences for taverns and shops and the conditions under which they may be given, and to define the duties of the inspector of the district (an officer also appointed by the Lieutenant-Governor). A licence cannot ordinarily be granted until the inspector has reported as to the fitness and good character of the applicant. Provision is made for the hearing of objections, after which the commissioners in their discretion grant or refuse the licence ; but an application for a

new licence cannot be granted, unless it is supported by a majority of the electors in the polling district, one-third of whom must be resident therein.

The application and objections thereto are required to be made at a public hearing ; the Board are entitled to consider any matter which they may think would be an objection to the granting of the licence, although no objection has been raised ; but in that case they must give notice to the applicant. They are competent to take sworn evidence.

The maximum number of tavern licences in each district is limited as follows :—In cities, towns and incorporated villages, one for each 250 of the first 1,000 of the population, and then one for each 400 ; “but in no case shall this limit authorise any increase in any municipality in excess of the number of licences therein issued for the year ending the first day of March, 1876, unless from the future increase of the population the Licence Commissioners think a larger number has become necessary, but not in any case exceeding the limit imposed by this Act.” In incorporated villages which are county towns, five taverns may be licensed, although the population would not warrant this number under the general rule. The Council of every city, town, village, and township may, however, by bye-law, still further limit the number within its own area. Tavern licences may be for the sale of intoxicating liquors generally, or may be for beer and light wines only, if the licence board by resolution declare that a portion of the allotted number of licences shall be so restricted.

Premises licensed as taverns must supply meals, and must also (subject to a limited power of allowing exceptions in cities and towns) contain sleeping accommodation for four (in cities, six) travellers, and in the country stabling for six horses. The Council of any city or town may also make additional requirements as to accommodation.

The number of shop licences (*i.e.*, “off-licences” for the sale of liquor in quantities not less than three half-pints) may be limited by municipal bye-law, and the holder of such a licence may, in like manner, be required to confine the business of his shop solely to the selling of liquor, or be made subject to other restrictions. In any case, no new shop licences can be granted for the sale of liquor in any premises where any other business is carried on, except the sale of mineral water, bottles, etc. ; and if any such business is carried on after the licence has

been granted, it becomes *ipso facto* void, and the licensee can be proceeded against for selling liquor without a licence.

Each licensee is required to give security for his compliance with the law by a bond in the sum of \$200, with two sureties, \$100 each. Wholesale licences are issued as of course on payment of the duty.

The following are the licence duties :—

Nature of Licence.	Duty.	Application of Duty.
<i>Tavern or Shop Licence—</i>	\$	\$
In cities over 20,000 inhabitants ... ..	250	150 to provincial revenue.
In other cities ... ..	200	100       "       "
In towns ... ..	150	70       "       "
In incorporated villages ...	120	60       "       "
In townships ... ..	90	30       "       "
<i>Beer and Wine Licence—</i>		
In cities ... ..	75	25       "       "
In towns ... ..	57'50	17'50       "       "
In incorporated villages ...	45	15       "       "
In townships ... ..	37'50	7'50       "       "
<i>Wholesale Licence—</i>	250	100       "       "
<p>The remainder of the duty goes in all cases to the licence fund of the licence district, and is applied first in defraying the expenses of the licence board and inspector; the residue is then apportioned, one-third to the province, two-thirds to the municipality.</p>		

Municipalities may by bye-law increase the duties on tavern and shop licences.

Druggists are permitted to sell liquor for strictly medicinal purposes, but only on a medical certificate if the amount exceeds six ounces at any one time.

Provisions are made against unlicensed clubs, and the Act provides elaborately for regulating the traffic, and checking and

punishing infringements of the law.\* No liquor may be sold between 7 o'clock on Saturday evening and 6 o'clock on Monday morning, and bar rooms must be kept closed during that time. The buyer, as well as the seller, of liquor during prohibited hours, and the buyer of liquor from an unlicensed seller, is liable to punishment; so also is any person who sells to an unlicensed dealer, the latter buying for the purpose of re-selling, unless such person resides or carries on business in another place, or proves that he acted innocently.

A licence is in general revocable after a third conviction; but separate proceedings must be taken for the purpose by the inspector, or the Licence Commissioners, or the county attorney, before the Judge of the County Court.

Where a person, while intoxicated, comes to his death by misadventure or suicide, his personal representatives are entitled to recover damages up to \$1,000 from anyone who supplied the liquor; and a similar action lies where a person commits an assault or injures property while intoxicated. The magistrate may also forbid liquor to be sold to any person who, "by excessive drinking of liquor, misspends, wastes or lessens his estate, or greatly injures his health, or endangers or interrupts the peace and happiness of his family." And the relations of a drunkard may serve notice on liquor-sellers not to supply him with drink.

In addition to the inspectors already mentioned, the Lieutenant-Governor may appoint provincial officers, and boards of licence commissioners may appoint officers for their districts, to enforce the law. Any such officer, or any constable or inspector, may enter taverns and liquor shops at all times; and warrants may be obtained for searching unlicensed premises.

*Manitoba.*—Liquor Licence Act, 1889 (as amended by subsequent Acts).

The Manitoba law provides for the appointment of Licence Commissioners and an inspector for each licence district. An applicant for a restaurant licence (which is granted only in cities) must produce a certificate signed by sixteen substantial householders that the restaurant is a necessity for the purpose of providing meals for the public; and the inspector is required to

\* The Act comprises 153 sections, and 13 schedules.

see that meals are provided for the public during the existence of the licence. Moreover, an application for any new licence, outside a town with 2,000 inhabitants, has to be backed by a recommendation signed by at least sixteen out of the twenty householders residing nearest to the premises; and the licence can subsequently be cancelled on a petition by eight out of the twenty nearest householders.

The licence duties range from \$250 to \$100 payable to the province, and the municipality may impose similar duties. Hotels are required to have in cities fifteen, in towns ten, and elsewhere six, bedrooms; also a public sitting-room separate from the bar, and (in the country districts) stabling for twelve horses.

The number of hotel and restaurant licences is limited by the Act; and a prohibitory bye-law may be passed for any municipality on a popular vote by a three-fifths majority. The Act contains stringent regulations, including a power to interdict sale to drunkards, and a "civil liability clause" for suicide or death by accident.

*British Columbia.*—The Licences Act.—Consolidated Acts, 1888, c. 73 (and amending Acts).

New retail licences are not to be granted in any town,\* village or settlement, except on a petition signed by two-thirds of the residents; and municipalities have power to pass bye-laws regulating the issue of saloon and tavern licences. Subject to these restrictions, licences may be granted by justices of the peace sitting in open court at a special session.

Renewals cannot be refused except on reasonable cause; but a licence may be cancelled by a judge if he considers it unnecessary. The sale of liquor to drunkards may be prohibited.

\* This does not apply to the cities of Victoria, New Westminster, and Nanaimo.

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## APPENDIX I.

*Address delivered by Prof. Francis Wayland (Dean of the Law Department of Yale University) at the Sixth National Convention of Law and Order Leagues in the United States, held at Philadelphia, February 22, 1888.*

I will, with your permission, address myself, in the brief time at my command, to these topics : the principles which should control temperance legislation and the policy by which alone such legislation can be made effective.

I am very far from claiming any novelty for the views which I shall present. In fact, my fear is that I shall fatigue you with their triteness. I can only endeavour to emphasise and enforce some truths, which I think are too often overlooked, but which are vital to the wisest settlement of a most difficult problem. It surely ought to be possible, especially in this city of Brotherly Love, to discuss the aspects of the general question which I have indicated without intemperance of language and without provoking intemperate opposition.

At all events the experiment seems to me worth trying.

It should be observed on the very threshold of the discussion, that the whole subject of temperance legislation, so far at least as its penal side is concerned, presents certain marked anomalies. The first and most obvious of these is that an offence is created and defined unknown to the common law. And while this anomaly is by no means confined to temperance and penal legislation, it has this peculiarity or distinctive feature, that other statutory offences, almost if not quite without exception, have been adopted by general if not uniform consent, from obvious if not admitted considerations of public policy—such as burglary in the daytime, having in possession burglar's implements, carrying concealed weapons, selling lottery tickets, etc. etc.

Again, in every proposed form of temperance legislation whether by regulation or prohibition, we are dealing with an article of commerce—an article, the manufacture and sale of which must, for certain purposes, be permitted, *i.e.*, legalised.

Once more so far as such legislation is penal we are making it an offence to sell where it is no offence to buy ; in other words, two intelligent, responsible moral agents voluntarily combine to do an

act which is in violation of law, and only one of the parties to the transaction is liable to punishment.

Again, in every community in our land those who invoke the aid of legislation to regulate or suppress the traffic in intoxicating liquors as a beverage are widely, and I fear almost hopelessly, divided as to the best methods to be pursued to diminish intemperance, the advocates of various expedients embracing some of the best citizens to be found in any community. While, antagonising all efforts at regulation or prohibition, we find a body of resolute men with almost unlimited resources, compact, united, aggressive, untiring, and bound together by the powerful motive of self-interest.

Now, in view of these anomalies and others which might be mentioned, it follows inevitably, does it not? that if the friends of the various measures which have been proposed persist in adhering to their respective methods—maintaining their positions with active, not to say intolerant zeal, no one measure can ever command such a preponderance of public sentiment as is absolutely indispensable to the efficient execution or enforcement of any law. If one wing of the general army succeeds in securing legislative sanction for its favourite method by a small, or under severe pressure in a time of feverish excitement by a considerable, majority, the divergent opinions to which I have alluded will sooner or later make themselves felt in the press, in the police force, on the bench, in the jury box; and the enactment, lacking the hearty moral support of the great body of the people, will fail to accomplish the purposes which its promoters aimed to secure.

That a given measure can be enacted under the immediate impulse of vehement excitement is no test of its wisdom, utility, or practical working power. It must stand the further test of the calm, deliberate, matter-of-fact judgment of the community in its normal condition, and that judgment, according to the degree of its concurrence or condemnation, will decide the question. Whatever measure has at its back a powerful preponderance of public opinion will have the surest prospect of success, and the converse of this proposition is equally true. If, for example, in any State or county or town, prohibition can command wellnigh uniform moral support, then and there prohibition may hope for success, so long as this attitude of the public mind and heart remains unchanged. But where this is not the case, there would seem to be a demand for mutual concession on the part of the promoters of temperance reform

The starving man, if sane, does not say, "I will eat no bread if I cannot have a whole loaf." The wise reformer does not say "I will not lift my finger in favour of any policy which falls short of my full demands." He rather says, does he not? "I will join a present, practicable, onward movement in the assured hope that it is only preparing the way for a further advance. If nothing is done or attempted while I am waiting for the coming of the ideal measure, I cannot hold myself blameless for the pernicious results which are sure to follow. Pending the coming in of the better and brighter day which is the final goal of all my efforts, I am still my brother's keeper, and cannot hope to escape my share of the grave responsibility." Suppose the Northern opponents of slavery—and by this I do not mean the abolition party—had said for a generation or two, before the war, slavery is a great moral wrong, the crime of the century, we will never vote to restrict it within existing limits, for that would involve us in complicity with the crime. We will not give aid by voice or vote to any policy which does not look exclusively to its instant abolition. Would this have been wise? Would it have been statesmanlike in view of the divergence of public opinion at the North? But by-and-by came a crisis which cemented the free States almost to a man in a common bond of union, and from that moment slavery was doomed. It could live and thrive with a divided North; it died before a united North.

Take another illustration bearing directly upon the topic under discussion. If, in any community, the decided preponderance of public sentiment, indicated partly by the prevailing opinion of the press, partly by the drift of the popular utterance and action, and partly by the emphatic repudiation at the polls of more stringent measures, is substantially in favour of prohibiting sales of intoxicating liquors to minors, to drunkards, on the Sabbath, on election days, after certain hours in secular days, and is also in favour of materially diminishing the number of saloons, then clearly temperance legislation in that community should be content, for the time, with seeking these ends by suitable and adequate enactments, enforced with wholesome, deterrent penalties.

And it is equally true, is it not, that if in another community, overwhelming public sentiment unmistakably ascertained, should unequivocally favour absolute prohibition, then temperance legislation obeying and reflecting the popular will of that community should hopefully enact such provisions as might best secure the end aimed at by a prohibition policy. But, in either case—and this

brings me to my second point, the policy by which alone temperance legislation can be made effective—in either case, the work is but begun when the Governor's signature has been secured.

Just here is, if I mistake not, a serious error in the attitude of some temperance reformers, conspicuously so—may I be pardoned for saying—among the advocates of prohibition. Overlooking the anomalous character of the subject with which they are dealing, they attach vastly too much importance to the mere enactment of the law. They worship the legislation which has rewarded their untiring efforts as a sort of fetish, able to work miracles by the simple circumstance of its existence on the statute book. They burn incense before its silent pages, and fancy that a temperance millenium has arrived because their idolised enactment has passed the Legislature and received the executive endorsement. If, by-and-by, they discover that the effects for good are not commensurate with their highly-wrought expectations, they seek to make the law more coercive and repressive, arguing, with, as it seems to me, singularly lame logic, that the stricter the law, the more implicit the obedience.

Meanwhile, with a blindness born, I must believe, of a too narrow devotion to an abstract principle, they wholly neglect that vigilant, ceaseless personal effort and co-operation, without which such a law, or, indeed, any law on this subject, whether of regulation or prohibition, can never be made effective. The moment they have secured the desired legislation, they relax the energy which they employed to obtain the aid of the law makers and the chief magistrate. They leave everything to the machinery of the courts and the action of the officers of the law, whose services in such cases are too often perfunctory. They are willing to influence votes at home, to haunt legislative halls and button-hole bucolic legislators, but they shrink from following up their action by applying to the detection of offences against the law the same pervasive and well-intended activity which has crowned their earlier efforts with success.

When the reaction comes, and it does come sometimes, does it not? and the law proves to be practically a dead letter, they content themselves with denouncing the disagreeing or acquitting juries, the lukewarm judges, the inefficient sheriffs and constables, the timid or perjured witnesses, and the generally indifferent citizens.

But all this complaint does not mend the matter. The only

policy which will secure the adequate enforcement of any form of temperance legislation is the policy which invites and obtains the active, cordial co-operation of law-abiding citizens. The ordinary machinery of the courts will not, unaided, accomplish the desired result. The rules and practices which prevail in the case of crime against person and property are not applicable here. A personal vigilance which never sleeps, a personal activity which never tires, a treasury which is never empty, and all these outside the paid officers of the law—such a policy as this is needed to make temperance legislation effective. Such voluntary organisation and effort must be well disciplined and kept in countenance by the presence and public sympathy of the best citizens. Official action must be supplemented always, and often stimulated by unofficial energy. Wholesome public sentiment must be crystalised, vitalised, utilised. The horde of wrongdoers combined to override the law and avoid punishment must be met and overborne by a larger body of resolute defenders of the law, commanding and deserving the sympathy, the respect and the approval of all lovers of law and order. Witnesses must be obtained, fairly paid and properly protected from abuse and persecution. Indifferent or hostile prosecuting officers must not be allowed to dodge their duty. Bail must be made to mean actual pecuniary responsibility, and bail bonds forfeited must not be suffered to slumber in the official desk.

Moreover, constant vigilance will be needed to see to it that the law is not weakened or impaired by mischievous amendments ingeniously urged by pretended friends of the Bill. Competent legal skill must be employed to guard the provisions of the law from being tampered with ; in a word, the fact must be ever recognised that a sleepless enemy is in the field, and that he is to be prevented from doing serious injury to the cause only by opposing to him an ability and a watchfulness superior to his own.

He must feel that he is to encounter not alone the agents of the law performing in a more or less perfunctory manner their official duty, but all this, plus an active, energetic, co-operating public sentiment, in visible form and with persistent purpose.

In the preparation of cases against the liquor-seller for violation of the statute, whether prohibiting or regulating sales, the prosecuting officer should find his hands strengthened by the efficient sympathy of reputable citizens. During the trial of the case, he should see among the spectators not alone, as is too often true,

a whisky-loving, nay, whisky-laden crowd, but a fair representation of order-loving and law-abiding men and women, watching the progress of the trial and encouraging the officials, both on the bench and at the bar, in the fearless discharge of their duty. And the same vigilant oversight should continue until the verdict and the announcement and execution of sentence.

Do you say that this active alliance between the private citizen and the public official ought not to be necessary? Granted. Nor ought it to be necessary to keep up the expensive machinery of courts of justice for the trial of offenders against law.

Do you remind me that like interference of the citizen is not called for in the case of other offences? Granted. But consider that in the case of every other criminal offence known to the common or the statute law there is, as has been already indicated, a general, if not unanimous, conviction in the minds of the vast majority of voters that such criminal offence is rightly punished in the interests of good order and good morals. The convicted offender finds no sympathy in the community; no one seeks to screen him from the consequence of his wrong-doing. In the arrest, the trial, the verdict of guilty, the punishment after sentence, the machinery of the law moves without friction. Enlightened public sentiment, in defiance of which no law can be long, if ever, enforced, sustains the appointed authorities of the State from the beginning to the end of their action, and praises them in proportion to their zeal, diligence, and success. Nay, more. Witnesses do not hesitate to come forward to testify to what they know. Juries unhesitatingly find verdicts in accordance with the proved facts. Courts give sentences based on the decision of the jury.

Is all this true in the case of attempts to enforce stringent liquor laws? Is it not notoriously difficult to produce evidence of their violation? nay, often impossible? Can juries be relied on to convict even on clear evidence? Are magistrates or judges always independent? If in default of such testimony as reputable citizens cognisant of material facts decline to furnish, you seek to prove your case by means of paid informers, whose reputation for truth and veracity is not and cannot be impeached; is their evidence fairly weighed and impartially considered by court or jury? You all know what the truthful answers to these questions must be. If, then, the disease is exceptional in its character and symptoms, the treatment must also be exceptional.

Let organised effort among good citizens be directed to the

enforcement of existing laws, and for two reasons: 1. Because a law on the statute book, violated with absolute or comparative impunity, is a serious menace to good order, encouraging offenders and enlarging the area of their wrong-doing. It breeds a spirit which, by-and-by, ripening into the creed of the anarchists, yields allegiance and obedience to no law, and demands unrestrained immunity from all law. 2. Because we can only judge of the value of any law by its strict enforcement. A law not enforced has no attributes, no features, no value, is of no more weight or worth on the statute book than is the letter p in pneumonia.

Enforce it, by the aid, if necessary, of the whole moral power of the community, and you will speedily ascertain its value. It may prove to be all you need for the present, at least. At all events, it is reasonable to presume that it means something, and that, if enforced, it may accomplish some good result. You have no right to tamper with it, or ignore it, or denounce it until it has been put to the test of a fair experiment. It must be a very poor enactment which does not possess enough power to be of considerable use, if it can be carried out. And, however that may be, the time to amend or to repeal an existing law is when, after adequate experiment, before competent courts, it has been proved to be too weak to be effective, or too stringent to secure the sympathy or co-operation of the community. To tamper with a law simply because there is a theory that it can be improved is mischievous nonsense.

Enforce existing laws when you can, amend or repeal them when you must. Never trifle with them or ignore them, or expect them to enforce themselves. If one-half you say about the evils of intemperance be true, the good citizen has a duty to perform, which is by no means confined to reading temperance tracts, or listening to temperance addresses, or even aiding to secure temperance legislation of his favourite variety. And it seems to me that no lover of good order and good morals has a right to withhold his active co-operation from the methods and measures of this organisation.

## APPENDIX II.

The following is the full text of the liquor ordinance of Atlanta :—

## LIQUOR TRAFFIC.

## 1. Wholesale Houses, 886-893.

## SECTION.

- 886. Written applications.
- 887. Deposit required.
- 888. Penalty for retailing by evasion.
- 889. Not sell without licence.

## SECTION.

- 890. Licence revocable.
- 891. Keeping on hand for unlawful sale.
- 892. Close when saloons close.
- 893. Hours of opening and closing.

## 2. Retail Houses, 894-922.

## SECTION.

- 894. Retail liquor limits.
- 895. No separate beer licences in these limits.
- 896. Price of licences.
- 897. Character of licensees.
- 898. No screens or blinds.
- 899. Place level with streets.
- 900. No gaming allowed.
- 901. Loitering prohibited.
- 902. Open and close, when.
- 903. Close on days named.
- 904. Oath of applicant.
- 905. Not sell without licence.
- 906. Sign to be posted.
- 907. Must admit officers.
- 908. Penalty.
- 909. Conviction revokes licence.

## SECTION.

- 910. Application, how made.
- 911. Mayor and Council may revoke.
- 912. Regulations as to transfers.
- 913. To whom licence shall not issue.
- 914. Not keep on hand for unlawful sale.
- 915. Empty kegs on sidewalks.
- 916. Retail at Piedmont Park.
- 917. Forfeitures of beer licences.
- 918. Forfeitures if place a nuisance.
- 919. Must keep minors out.
- 920. Punishment of minors.
- 921. Sign as to minors.
- 922. Alcohol — Druggists protected.

SECTION 886. All persons, firms, corporations or companies desiring to engage in the sale of spirituous or malt liquors at wholesale, in said city, shall make written application to the Mayor and General Council for such privilege, and the said Mayor and General Council may, in its discretion, grant or refuse such privilege, upon each application made : *Provided*, that no such privilege shall be granted to carry on such business at any place in said city, outside of the limits prescribed for the retail of ardent spirits.



SEC. 887. Before any licence shall issue as above set forth, the applicant shall pay to the City Clerk the sum of twenty-five dollars, and the Clerk's fee of fifty cents, and shall make and subscribe before said Clerk, on oath, that he will not, by himself, or others, sell any spirituous or malt liquors in any quantity less than one gallon, nor permit any so sold to be divided or drank on the premises where sold ; nor sell, nor permit the same to be sold, in any quantity to a minor, or a person already intoxicated ; and shall also give bond with security, to be approved of by the Clerk, in the sum of two thousand dollars, conditioned faithfully to observe all State laws and city ordinances pertaining to the said business.

SEC. 888. Any person licensed as aforesaid who shall sell any spirituous or malt liquors other than at wholesale, or who shall by any devise by himself, or his agents, subdivide the same or permit the same or any part thereof, to be drank on the premises, on conviction thereof, shall be punished by a fine not exceeding five hundred dollars, or imprisoned not exceeding thirty days, or both, in the discretion of the court, and such conviction shall work an immediate revocation of his licence.

SEC. 889. Any person, firm, corporation, or company, who shall sell or offer for sale at wholesale, any spirituous or malt liquors, without having first complied with all the provisions of this ordinance, shall, on conviction thereof, be punished by a fine not exceeding five hundred dollars, or imprisoned not exceeding thirty days, or both, in the discretion of the court.

SEC. 890. All licences under this ordinance shall issue for one year, but may be revoked by the Mayor and General Council at any time upon refunding the applicant the *pro-rata* amount for the unused time, and no licence is transferable except by consent of Mayor and General Council. Such licence shall protect but one place, and that the place specified in the licence.

SEC. 891. Any person, firm, or corporation who shall keep for unlawful sale in any store, house, room, office, cellar, stand, booth, stall, or other place, or shall have contained for unlawful sale in any barrel, keg, can, demijohn, or other package, any spirituous, fermented, or malt liquors for such sale, shall, on conviction, be punished by fine not exceeding five hundred dollars or imprisonment not exceeding thirty days, either or both, in the discretion of the court.

SEC. 892. Wholesale liquor houses shall be required to close

their doors on Christmas Day of every year; and at all other times when retail liquor dealers are required to close their places, except that on holidays, other than Sundays and Christmas Days, wholesale dealers may ship goods to the trade outside of the city.

SEC. 893. The hours for opening and closing wholesale liquor houses shall be the same as for saloons, to wit: Open not earlier than 5 o'clock a.m. and close not later than 10 o'clock p.m.

SEC. 894. The Mayor and General Council may, in their discretion, grant or refuse licence to sell, at retail, spirituous or malt liquors, on the business portion of the following streets, between the points named on each application made, to wit:

[The limits within which licences may be granted are here set out.]

SEC. 895. Within the limits above provided, on the streets above named, no separate licence for the sale of lager beer or malt liquors shall be issued. Outside of the above limits on business portions of business streets within practicable and efficient police supervision, and in localities where there is no reasonable objection thereto, licences may be issued for the retail of lager beer and malt liquors only. Should any dealer licensed to sell lager beer and malt liquors only, by himself or agent, have, or keep on hand, or sell, furnish, or offer to sell, or furnish to any persons any spirituous liquors, his licence shall thereupon and thereby be forfeited, and such person so offending shall, on conviction thereof, be fined not exceeding five hundred dollars and imprisoned thirty days. The sentence, on conviction, shall include imprisonment, and shall not be less than thirty days, and in any such case neither the Mayor, or the Mayor and General Council shall have any power or authority to reduce or relieve the sentence by revision, pardon, or otherwise; and such person shall not thereafter be entrusted with any licence to sell either spirits or malt liquors. Any agent of any such licensed dealer in malt liquors who shall violate the foregoing provisions shall be subject to the penalties and disqualifications herein above provided. All licences for the retail of lager beer and malt liquors shall issue subject to the right and purpose of the city by its police officers and policemen, and special agents and inspectors at any and all times to inspect the conduct of the business of any such licensed dealer and agents, as also the character of the stock kept by any such dealer.

SEC. 896. The price of each licence to retail spirituous or

spirituous and malt liquors shall be at the rate of one thousand dollars per annum, and the Clerk's fee of fifty cents, which in each case may be paid quarterly in advance. The price of each licence to retail lager beer and malt liquors only shall be at the rate of one hundred dollars per annum, and Clerk's fee of fifty cents, payable quarterly in advance.\*

SEC. 897. No licence to retail, as aforesaid, shall issue to any person other than of good character, sobriety, and discretion, and regard to this shall be had on, and as to, each application made.

SEC. 898. No place, for which a licence to retail as aforesaid shall issue, shall have any screen, blinds, or painted glass, or other obstruction of the view through the doors and windows thereof. Licence shall not issue for any place which does not front on, or have the main entrance thereto directly from, a public street, but this requirement shall not apply to hotels where the bar is so situated as to be open to the view generally of persons stopping at said hotels.

SEC. 899. No licence shall issue for any place not substantially on a level with a public street, except that the Mayor and General Council may, in their discretion, grant or refuse licence to retail in basements sufficiently open to view.

SEC. 900. No gaming table, gaming device or apparatus, shall be kept or used at any place for which licence is granted, nor shall any game by cards, ten-pins, or music, or otherwise, be played at any such place for amusement, exercise, or for anything of value, nor shall any pools be sold, provided the keeping of billiard and pool tables and playing thereon for exercise or amusement only, shall not be prohibited in hotels when the same are in a different room from the bar.

SEC. 901. No person to whom a licence is issued shall permit drunken or disorderly persons to assemble or loiter therein.

SEC. 902. No place for which a licence is granted shall be kept open later than 10 o'clock p.m., or opened earlier than 5 o'clock a.m.

SEC. 903. No person licensed to sell spirituous or malt liquors in said city, shall keep open his place or sell or furnish liquors on the Sabbath, Fourth of July, or Christmas Day, or on occasions when, in the judgment of the Mayor and Police Commissioners,

\* \$250 per annum by Tax Ordinance of 1891.

the conserving of the peace and order of the city requires closing, and they first notify such dealer to close.

SEC. 904. All persons to whom licences shall issue shall take the oaths required by law, and any person hereafter applying for the granting of retail liquor or beer licence, or the removal or transfer of such licence, shall be required, in connection with such application, to take, subscribe, and file an affidavit stating that the applicant has not been convicted of violating the State laws regulating the liquor traffic, or the city ordinances which provides for granting of retail liquor and beer licences and prescribes for the conduct of licensed saloons, and further stating that no indictment or accusation is pending against him in the State Court, or any Recorder's Court, charging such violation.

That any person falsely swearing to the affidavit required by the preceding section, shall be prosecuted by the Chief of Police in the Superior Court of Fulton county.

SEC. 905. No person shall, in said city, retail or sell in quantities less than one quart, any spirituous or malt liquors without having obtained licence therefor, paid the required price, given the bond and taken the oath provided by law and ordinance.

SEC. 906. Licensed retailers (hotels excepted) shall, within five days after obtaining licence, affix a sign board near to, or over his door, on which shall be printed in plain words, "Licensed retailer of spirituous liquors."

SEC. 907. It shall be the duty of each and every licensed retailer of spirituous liquors to admit the Mayor or any member of the General Council, Police Commissioner, or any police officer or policeman, into his or her premises at any time when such permission may be demanded.

SEC. 908. Any person violating any of the foregoing provisions of this ordinance shall, for each offence on conviction thereof, be fined not exceeding five hundred dollars, or imprisonment thirty days, either or both, in the discretion of the court.

SEC. 909. The conviction in a State court of any person licensed to retail spirituous or malt liquors for the violation of the State Statutes in relation to the sales of ardent spirits to a minor or person already intoxicated; or the conviction of a retailer before the Recorder's Court for the violation of any of the provisions of this ordinance, shall work an immediate revocation of the licence of such person, and for any further exercise of the privilege granted by

such licence, he shall be punished as one retailing without licence.\*

SEC. 910. Each person applying for licence to retail as aforesaid shall, at the time of application, deposit with the Clerk a written description of the place where he desires to carry on the business, and a certificate of two, one of whom must be an adjoining neighbour, or more of his sober, respectable, near neighbours, not interested in the application, recommending the applicant as fit to be trusted with such licence ; and shall also present the written consent of the owner or agent of the premises in which he desires to carry on the business. The applicant shall also tender a bond, with good security in the sum of one thousand dollars for the keeping of a decent and orderly house, and for compliance with all laws of the State of Georgia and said city relating to the liquor traffic and the regulation thereof. In case of any and each breach of the condition of said bond the amount thereof shall be liquidated damages and recoverable in action in favour of said city for the same. In case the Mayor and General Council shall direct suit, and by resolution, or vote, declare a breach of any bond to have occurred, said body may also declare the licence of the party forfeited and revoked. Each bond tendered shall have at least two names as securities thereon, and no person shall be security on more than one bond at the same time. The securities shall also justify as to their solvency to the amount of bond over and above debts and liabilities, and homestead and exemption laws. When the application is made and bond tendered, as above provided, the same shall be referred to the committee and police, who shall personally examine the location and surroundings of the place for which licence is applied, notify, or have notified, adjacent tenants or owners, or agents of owners and also the owner, tenant, or agent of the owner of the place, or building, for which licence is applied, as may be practicable, of the pending of such application and report thereon, at the next regular meeting of Mayor and General Council or as early thereafter as practicable.

SEC. 911. The price of licences to retail, the time they may last, and the amount of bond, may be fixed or changed at any time, provided no vested rights are impaired by such change ; otherwise all such licences shall expire on June 30th, following the date of same, but may be revoked at any time by the Mayor and General

\* This Section upheld in case *Sprayberry v. Atlanta* by Supreme Court.

Council for the violation of any of the provisions of this ordinance, any other ordinances of the city, or laws of the State, relating to the retail liquor traffic and regulation of the same.

SEC. 912. No licence is transferable, except by consent of the Mayor and General Council, as regard shall be had to the person to be entrusted with such licence. No licence shall protect more than one place, and that the place described therein, and no liquors shall be retailable in the streets of said city.

SEC. 913. No licence to retail shall issue to any person who shall hereafter sell liquors by the gallon in said city under wholesale licence, where the purpose of such person shall be to supply other than licensed dealers with liquors, and where the amount and extent of the stock kept by such persons are less than requisite for the carrying on, in good faith, the wholesale trade. Nor shall retail licence issue to any person who shall hereafter, in said city, sell liquors by the gallon with the knowledge that persons acting together in purchasing the same will immediately divide, or have the dealer selling the same divide it for immediate consumption or carrying away.

SEC. 914. Any person who shall keep on hand for unlawful sale by the quart (not having licence from the Commissioner of Roads and Revenues of Fulton county) any liquors kept ostensibly for sale at wholesale by the gallon, or shall permit the division of the same by purchasers, or others in his presence, or shall retail the same, shall be debarred of a wholesale or retail licence hereafter, and in addition, shall, on conviction of either offence named in this and the preceding section, be fined not exceeding five hundred dollars, or imprisoned thirty days, either or both, in the discretion of the court.

SEC. 915. It shall be unlawful for empty beer kegs to remain on the sidewalks or streets of Atlanta longer than twenty-four hours after being placed there; that all Breweries or their agents, doing business in said city, be required to make daily collections of empty kegs, and any Brewery or agent violating the provisions of this ordinance shall, upon conviction before the Recorder, be fined not less than five dollars and costs for each offence.

SEC. 916. On compliance with all laws and ordinances of the city with reference to obtaining licence to retail liquor, and the deposit of ten dollars per day, and Clerk's fee for the time applied for, accompanied by the written consent of the authorities of the Gentlemen's Driving Club, or the Piedmont Exposition Company, the Clerk of Council is authorised to issue licence to retail malt

and spirituous liquors on the grounds of the Piedmont Exposition Company, or Gentlemen's Driving Club; *provided*, that the hours of closing shall be ten o'clock p.m., and of opening seven o'clock a.m., and the person or persons receiving such licence shall be subject to all laws and ordinances regulating the retail liquor traffic. Such licence shall be subject to forfeiture at any time on the request of either the Piedmont Exposition Company, or Gentlemen's Driving Club, or authorities thereof, and licences are also taken subject to this provision for forfeiture.

SEC. 917. All the provisions of the ordinance aforesaid, of the retail liquor ordinance, relating to application, bond, licence, regulation, selling without licence, penalties, forfeiture of licence, etc. etc., in case of retail of spirituous, or malt and spirituous liquors, shall apply to the retail of lager beer and malt liquors, except as otherwise herein provided.

SEC. 918. The Mayor and General Council shall forfeit the licence of any retailer of either spirituous or lager beer, or malt liquors, whose place becomes a nuisance or of ill-repute, by disorder thereat, or otherwise.

SEC. 919. It shall be unlawful for any minor to go into any place where spirituous or malt liquors are kept for retail, unless by written consent of parent or guardian, and any minor violating the provisions of this ordinance shall, on conviction before the Recorder, pay a fine of not less than five dollars, or work on the public works not less than five days.

SEC. 920. Any person under twenty-one years of age who shall, under false representation as to age, buy or allow to be bought for him, other than by parent or guardian, any liquors, malt or spirituous, in any retail saloon of this city, shall, upon conviction before the Recorder, pay a fine of not less than twenty-five dollars, or serve not less than twenty-five days on the public works.

SEC. 921. All places licensed to retail spirituous or malt liquors shall have posted in conspicuous places about their place of business, "No minors allowed in here," and the same shall be considered sufficient notice.

SEC. 922. When any person applies to any druggist or other lawful dealer for the purchase of alcohol, and shall state that it is bought for mechanical, medicinal, or chemical purposes, the statement or assurance of said purchaser as to the use intended, shall be a complete protection for such druggist or other lawful dealer in alcohol, from any prosecution under any city ordinance.

# Petition and Bond to Sell at Wholesale Spirituous and Malt Liquors.

## PETITION.

TO THE MAYOR AND GENERAL COUNCIL OF THE CITY OF ATLANTA.

GENTLEMEN,—Desiring to engage in the business of Selling at Wholesale Spirituous and Malt Liquors at No. \_\_\_\_\_ Street, in said City, I present this, my application, with Bond, in accordance with the ordinances of the City governing the same.  
Respectfully, \_\_\_\_\_

## BOND—NOT LESS THAN TWO SECURITIES.

Georgia, Fulton County, }  
City of Atlanta. } Atlanta, Ga. \_\_\_\_\_ 18 \_\_\_\_.

Know all Men by these Presents, That \_\_\_\_\_ Principal, and \_\_\_\_\_ Securities, all of said County, are each held and firmly bound unto the City of Atlanta in the penal sum of Two Thousand Dollars, for the payment of which we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents, signed, sealed, and dated, this \_\_\_\_\_ 18 \_\_\_\_\_. And each of us hereby waive and renounce for ourselves and families, respectively, the benefit of all homestead and exemption laws of the said State, or of the United States, as against the amount of this bond and the payment of the same, or liability thereon.

The Condition of this Obligation is such, That whereas the said \_\_\_\_\_ Principal, has filed his application for Licence to sell at Wholesale Spirituous and Malt Liquors, at No. \_\_\_\_\_ Street, said City, to terminate on the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_. Now if the said \_\_\_\_\_ shall comply with all laws of the said State of Georgia, and said City, relating to the liquor traffic and the regulation thereof, during the period named in this Bond, then this obligation to be void; else of force. In case of breach, the amount of the Bond to be liquidated damages in favour of said City.

\_\_\_\_\_ [L.S.]  
Attest \_\_\_\_\_ [L.S.]

## JUSTIFYING OATH OF SURETIES.

State of Georgia, }  
Fulton County } Personally appeared before the undersigned \_\_\_\_\_ Sureties on the above Bond, who being duly sworn, depose and say that they are worth the amount of said Bond over and above all debts and liabilities, and over and above the amount of homestead or exemption allowed by the laws of said State.

Sworn to and subscribed before me this }  
\_\_\_\_\_ 18 \_\_\_\_ } \_\_\_\_\_

State of Georgia, }  
Fulton County } Personally appeared before the undersigned \_\_\_\_\_ applicant above, who being duly sworn, deposes and says that he will not, by himself or others, Sell any Spirituous or Malt Liquors in any quantity less than one gallon, nor permit any so sold to be divided or drank on the premises where sold, nor will I sell, or permit the same to be sold in any quantity, to a minor or a person already intoxicated.

Sworn to and subscribed before me this }  
\_\_\_\_\_ 18 \_\_\_\_ } \_\_\_\_\_

[The form of petition, when granted, is endorsed with the words "Approved, with the right reserved by the City to revoke and withdraw the Licence, upon failure to comply with, or a violation of any of the Ordinances of the City or laws of the State, enacted for the government of the same," to which the necessary signatures are appended.]



## Petition and Bond to Sell at Retail Spirituous and Malt Liquors.

## PETITION.

TO THE MAYOR AND GENERAL COUNCIL OF THE CITY OF ATLANTA.

GENTLEMEN,—Desiring to engage in the business of selling at retail Spirituous and Malt Liquors at No. \_\_\_\_\_ Street, in said city, I present this, my application with accompanying consent of owner or agent of said place, and of two of my near neighbours, one of whom is adjoining neighbour, and Bond, in accordance with the Ordinance of the city governing same. \_\_\_\_\_ Respectfully, \_\_\_\_\_.

## CONSENT OF LANDLORD OR AGENT.

The undersigned, being the owner or agent of the place described in the above petition, hereby consents to the use of the same by the above petitioner, for the purpose in said petition stated. \_\_\_\_\_ Respectfully, \_\_\_\_\_.

## CERTIFICATE OF ADJACENT NEIGHBOURS—NOT LESS THAN TWO.

The undersigned, near neighbours to petitioner's place above described, and one of them an adjoining neighbour, recommend the above petitioner as fit to be entrusted with the licence prayed for. \_\_\_\_\_

## BOND—NOT LESS THAN TWO SECURITIES.

Georgia, Fulton County, }  
City of Atlanta. }

Atlanta, Ga. \_\_\_\_\_, 189 \_\_\_\_.

KNOW ALL MEN BY THESE PRESENTS, that \_\_\_\_\_, Principal, and \_\_\_\_\_, Securities, all of said county, are each held and firmly bound unto the City of Atlanta in the penal sum of ONE THOUSAND DOLLARS, for the payment of which we bind ourselves, our heirs, executors and administrators, jointly and severally, by these presents. Signed, sealed, and dated this \_\_\_\_\_, 189 \_\_\_\_\_. And each of us hereby waive and renounce for ourselves and families respectively, the benefit of all homestead and exemption laws of said State, or of the United States, as against the amount of this Bond and the payment of the same, or liability thereon.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the said \_\_\_\_\_, Principal, has filed his application for Licence to sell at retail Spirituous and Malt Liquors at No. \_\_\_\_\_ Street, said city, to terminate on the \_\_\_\_\_ day of \_\_\_\_\_, 189 \_\_\_\_\_, with the privilege of payments quarterly, or otherwise as prescribed by Ordinance. Now, if the said \_\_\_\_\_ shall keep an orderly and decent house, and comply with all laws of the State of Georgia, and said city, relating to the liquor traffic and the regulation thereof, during the period named in this Bond, then this obligation to be void; else of force. In case of breach, the amount of the Bond to be liquidated damages in favour of said city.

Attest \_\_\_\_\_

(L.S.)

(L.S.)

(L.S.)

## JUSTIFYING OATH OF SURETIES.

State of Georgia, }  
Fulton County. }

Personally appeared before the undersigned \_\_\_\_\_, Sureties on the above Bond, who being duly sworn, depose and say that they are worth the amount of the said Bond over and above all debts and liabilities, and over and above the amount of homestead or exemption allowed by the laws of said State.

Sworn to and subscribed before me this \_\_\_\_\_

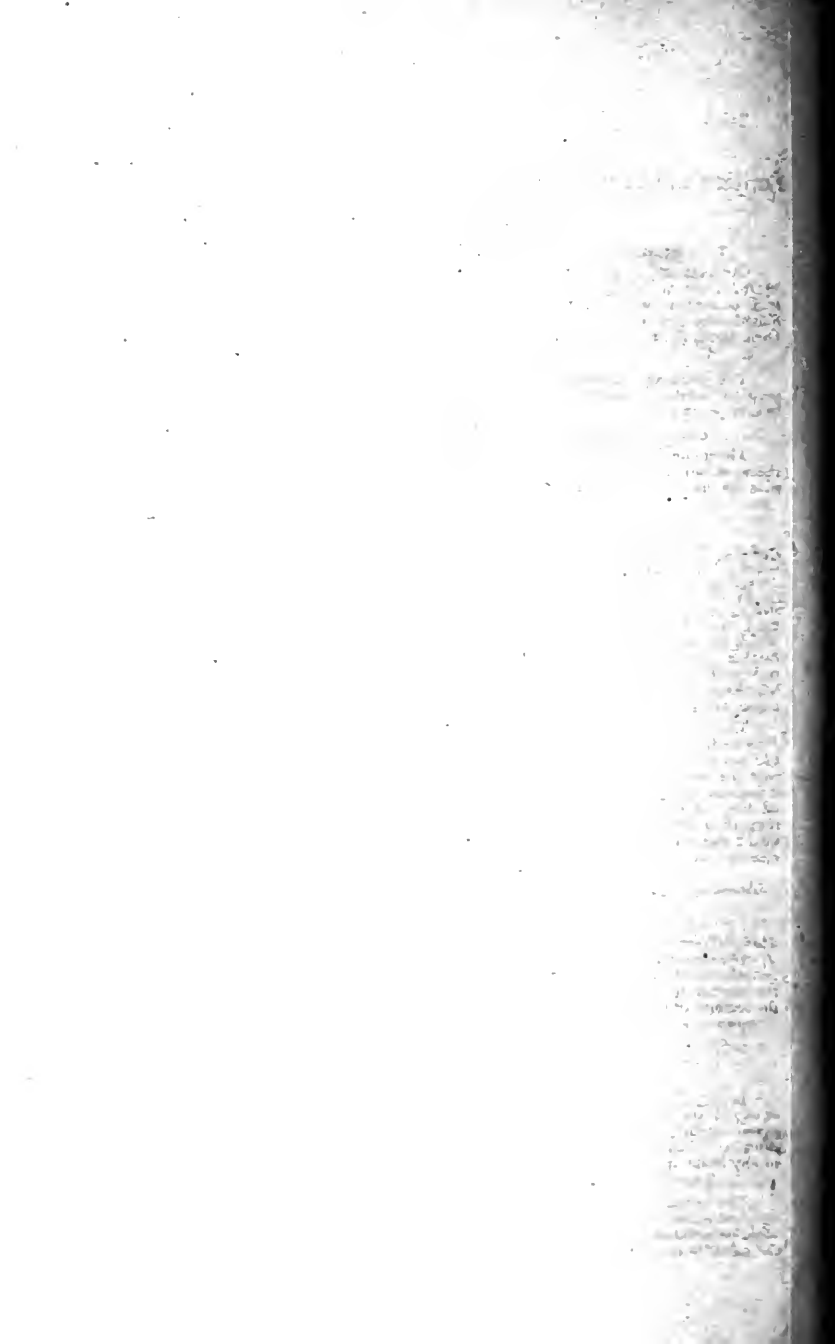
189 \_\_\_\_

## AFFIDAVIT.

I, \_\_\_\_\_ do solemnly swear that I have never been convicted of violation of any of the laws of the State regulating the liquor traffic, nor of any City Ordinances providing for granting Retail Liquor and Beer Licences, or for the conduct of licensed saloons. That there are no indictments pending nor any accusation on file against me in any State or City Courts for violation of any such law or ordinance.

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 189 \_\_\_\_.

[The petition, when granted, is endorsed with the words—"Approved, with the right reserved by the City to revoke and withdraw the licence upon failure to comply with, or a violation of any of the Ordinances of the City enacted for the government of the same"—and the necessary official signatures.]



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